

**2007**

**DANGEROUS WEAPONS  
CONTROL LAW**



**PART 4, TITLE 2 CALIFORNIA  
PENAL CODE, ETC**

**FOR INTERNAL DOJ USE**



## 2007 Dangerous Weapons Control Law

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**12000.** This chapter shall be known and may be cited as "The Dangerous Weapons Control Law."

**12001.** (a)(1) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(2) As used in this title, the term "handgun" means any "pistol," "revolver," or "firearm capable of being concealed upon the person."

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section 12072, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "handgun," "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6 mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are

licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose. "Wholesaler" shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, "application to purchase" means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant

to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the Armed Forces

of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

(p) As used in this code, "basic firearms safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, prior to January 1, 2003.

(q) As used in this code, "handgun safety certificate" means a certificate issued by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or after January 1, 2003.

(r) As used in this title, "gunsmith" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

**12001.1.** (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any undetectable knife is guilty of a misdemeanor. As used in this section, an "undetectable knife" means any knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death that is commercially manufactured to be used as a weapon and is not detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(b) Notwithstanding any other provision of law, commencing January 1, 2000, all knives or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death that are commercially manufactured in this state that utilize materials that are not detectable by a metal detector or magnetometer shall be manufactured to include materials that will ensure they are detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(c) This section shall not apply to the manufacture or importation of undetectable knives for sale to a law enforcement or military entity nor shall this section apply to the subsequent sale of these knives to a law enforcement or military entity.

(d) This section shall not apply to the

manufacture or importation of undetectable knives for sale to federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that the undetectable knives are properly housed and secured from unauthorized handling, nor shall this section apply to the subsequent sale of the knives to these societies, museums, and collections.

**12001.5.** Except as expressly provided in Section 12020, and solely in accordance with Section 12020, no person may manufacture, import into this state, keep for sale, offer for sale, give, lend, or possess any short-barreled shotgun or short-barreled rifle, as defined in Section 12020, and nothing else in this chapter shall be construed as authorizing the manufacture, importation into this state, keeping for sale, offering for sale, or giving, lending, or possession of any short-barreled shotgun or short-barreled rifle, as defined in Section 12020.

**12001.6.** As used in this chapter, an offense which involves the violent use of a firearm includes any of the following:

- (a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a violation of subdivision (d) of Section 245.
- (b) A violation of Section 246.
- (c) A violation of paragraph (2) of subdivision (a) of Section 417.
- (d) A violation of subdivision (c) of Section 417.

**12002.** (a) Nothing in this chapter prohibits police officers, special police officers, peace officers, or law enforcement officers from carrying any wooden club, baton, or any equipment authorized for the enforcement of law or ordinance in any city or county.

(b) Nothing in this chapter prohibits a uniformed security guard, regularly employed and compensated by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of his or her employment, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

(c) The Department of Consumer Affairs, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the carrying and use of the club or baton.

(d) Any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of his or her employment, issued by the Department of Consumer Affairs. The department may authorize certified training institutions to issue permits to carry and use a club or baton. A fee in the amount provided by law shall be charged by the Department of Consumer Affairs to offset the costs incurred by the department in course certification, quality control activities associated with the course, and issuance of the permit.

(e) Any person who has received a permit or certificate which indicates satisfactory completion of a club or baton training course approved by the Commission on Peace Officer Standards and Training prior to January 1, 1983, shall not be required to obtain a baton or club permit or complete a course certified by the Department of Consumer Affairs.

(f) Any person employed as a county sheriff's or police security officer, as defined in Section 831.4, shall not be required to obtain a club or baton permit or to complete a course certified by the Department of Consumer Affairs in the carrying and use of a club or baton, provided that the person completes a course approved by the Commission on Peace Officer Standards and Training in the carrying and use of the club or baton, within 90 days of employment.

(g) Nothing in this chapter prohibits an animal control officer, as described in Section 830.9, from carrying any wooden club or baton if the animal control officer has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

**12003.** If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

## **ARTICLE 1.5. PROHIBITED ARMED PERSONS FILE**

**12010.** (a) The Attorney General shall establish and maintain an online data base to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the Consolidated Firearm Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm.

(b) The information contained in the Prohibited Armed Persons File shall only be available to those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms.

**12011.** The Prohibited Armed Persons File database shall function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Section 12021, a conviction for an offense described in Section 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited from acquiring, owning, or possessing firearms, the department shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a

.50 BMG rifle registration, the following information shall be entered into the Prohibited Armed Persons File:

- (1) The subject's name.
- (2) The subject's date of birth.
- (3) The subject's physical description.
- (4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.
- (5) The basis of the firearms possession prohibition.
- (6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System.

**12012.** The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm.

## **ARTICLE 2. UNLAWFUL CARRYING AND POSSESSION OF WEAPONS**

**12020.** (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person



any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily

available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment

event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from

possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830)

of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(30)(A) The manufacture of a large-capacity magazine for any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(B) The manufacture of a large-capacity magazine for use by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(C) The manufacture of a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable federal regulations.

(31) The loan of a large-capacity magazine for use solely as a prop for a motion picture, television, or video production.

(32) The purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305, for any of the following purposes:

(A) For use solely as a prop for a motion picture, television, or video production.

(B) For export pursuant to federal regulations.

(C) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

(c)(1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C) inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C) inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled

rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, that measures approximately one inch in length, with tail fins that take up approximately five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a

projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater speargun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm. "Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2-

1/2 inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray

machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

(A) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(B) A .22 caliber tube ammunition feeding device.

(C) A tubular magazine that is contained in a lever-action firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

**12020.1.** Any person in this state who

commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any hard plastic knuckles is guilty of a misdemeanor. As used in this section, "hard plastic knuckles" means any device or instrument made wholly or partially of plastic that is not a metal knuckle as defined in paragraph (7) of subdivision (c) of Section 12020, that is worn for purposes of offense or defense in or on the hand, and that either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The plastic contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs that would contact the individual receiving a blow.

**12020.3.** Any person who, for commercial purposes, purchases, sells, manufacturers, ships, transports, distributes, or receives a firearm, where the coloration of the entire exterior surface of the firearm is bright orange or bright green, either singly, in combination, or as the predominant color in combination with other colors in any pattern, is liable for a civil fine in an action brought by the city attorney of the city or the district attorney for the county of not more than ten thousand dollars (\$10,000).

**12020.5.** It shall be unlawful for any person, as defined in Section 12277, to advertise the sale of any weapon or device whose possession is prohibited by Section 12020, 12220, 12280, 12303, 12320, 12321, 12355, or 12520 in any newspaper, magazine, circular, form letter, or open publication that is published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device.

**12021.** (a)(1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or her possession or under his or her

custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c)(1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, 12023 or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions

on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred. In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred. In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d)(1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this section from owning, purchasing, receiving, possessing or having under his or her custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. Failure to provide the

notice shall not be a defense to a violation of this section.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars (\$1,000), or received both punishments.

(g)(1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, or issued pursuant to Section 136.2 or 646.91 of this code, or by a protective order issued pursuant to Section 15657.03 of the Welfare and

Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or by a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect.. The order shall also state that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h)(1) A violation of subdivision (a), (b), (c), (d) or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law



enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

**12021.1.** (a) Notwithstanding subdivision (a) of Section 12021, any person who has been previously convicted of any of the offenses listed in subdivision (b) and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony. A dismissal of an accusatory pleading pursuant to Section 1203.4a involving an offense set forth in subdivision (b) does not affect the finding of a previous conviction. If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(b) As used in this section, a violent offense includes any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape.
- (4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (5) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (6) Lewd acts on a child under the age of 14 years.
- (7) Any felony punishable by death or

imprisonment in the state prison for life.

(8) Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.

(9) Attempted murder.

(10) Assault with intent to commit rape or robbery.

(11) Assault with a deadly weapon or instrument on a peace officer.

(12) Assault by a life prisoner on a non-inmate.

(13) Assault with a deadly weapon by an inmate.

(14) Arson.

(15) Exploding a destructive device or any explosive with intent to injure.

(16) Exploding a destructive device or any explosive causing great bodily injury.

(17) Exploding a destructive device or any explosive with intent to murder.

(18) Robbery.

(19) Kidnapping.

(20) Taking of a hostage by an inmate of a state prison.

(21) Attempt to commit a felony punishable by death or imprisonment in the state prison for life.

(22) Any felony in which the defendant personally used a dangerous or deadly weapon.

(23) Escape from a state prison by use of force or violence.

(24) Assault with a deadly weapon or force likely to produce great bodily injury.

(25) Any felony violation of Section 186.22.

(26) Any attempt to commit a crime listed in this subdivision other than an assault.

(27) Any offense enumerated in subdivision (a), (b), or (d) of Section 12001.6.

(28) Carjacking.

(29) Any offense enumerated in subdivision (c) of Section 12001.6 if the person has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417.

(c) Any person previously convicted of any of the offenses listed in subdivision (b) which conviction results from certification by the juvenile court for prosecution as an adult in adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony. If probation is granted, or if the imposition or execution of sentence is suspended,

it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(d) The court shall apply the minimum sentence as specified in subdivisions (a) and (c) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the imprisonment required by subdivisions (a) and (c), or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a) and (c), in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

**12021.3.** (a)(1) Any person who claims title to any firearm that is in the custody or control of a court or law enforcement agency and who wishes to have the firearm returned to him or her shall make application for a determination by the Department of Justice as to whether he or she is eligible to possess a firearm. The application shall include the following:

(A) The applicant's name, date and place of birth, gender, telephone number, and complete address.

(B) Whether the applicant is a United States citizen. If the applicant is not a United States citizen, he or she shall also provide his or her country of citizenship and his or her alien registration or I-94 number.

(C) If the firearm is a handgun, the firearm's make, model, caliber, barrel length, handgun type, country of origin, and serial number.

(D) For residents of California, the applicant's valid California driver's license number or valid California identification card number issued by the Department of Motor Vehicles. For nonresidents of California, a copy of the applicant's military identification with orders indicating that the individual is stationed in California, or a copy of the applicant's valid driver's license from the state of residence, or a copy of the applicant's state identification card from the state of residence. Copies of the documents provided by non-California residents shall be notarized.

(E) The name of the court or law enforcement agency holding the firearm.

(F) The signature of the applicant and the date of signature.

(G) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information

required to be provided for the application, including any notarized information pursuant to subparagraph (D) of paragraph (1) of subdivision (a) shall be guilty of a misdemeanor.

(2) A person who owns a firearm that is in the custody of a court or law enforcement agency and who does not wish to obtain possession of the firearm, and the firearm is an otherwise legal firearm, and the person otherwise has right to title of the firearm, shall be entitled to sell or transfer title of the firearm to a licensed dealer as defined in Section 12071.

(3) Any person furnishing a fictitious name or address, or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the application, including any notarized information pursuant to subparagraph (D) of paragraph (1) of subdivision (a) is punishable as a misdemeanor.

(b) No law enforcement agency or court that has taken custody of any firearm may return the firearm to any individual unless the following requirements are satisfied:

(1) That individual presents to the agency or court notification of a determination by the department pursuant to subdivision (e) that the person is eligible to possess firearms.

(2) If the agency or court has direct access to the Automated Firearms System, the agency or court has verified that the firearm is not listed as stolen pursuant to Section 11108, and that the firearm has been recorded in the Automated Firearms System in the name of the individual who seeks its return.

(3) If the firearm has been reported lost or stolen pursuant to Section 11108, a law enforcement agency shall notify the owner or person entitled to possession pursuant to Section 11108.5. However, that person shall provide proof of eligibility to possess a firearm pursuant to subdivision (e). Nothing in this subdivision shall prevent the local law enforcement agency from charging the rightful owner or person entitled to possession of the firearm the fees described in subdivision (j). However, individuals who are applying for a background check to retrieve a firearm that comes into the custody or control of the court or law enforcement agency pursuant to subdivision (a) shall be exempt from the fees in subdivision (c) provided that the court or agency determines the firearm was reported stolen to a law enforcement agency prior to the date the firearm came into custody or control of the court or law enforcement agency or within five business days of the firearm being stolen from its owner. The court or agency shall notify the Department

of Justice of this fee exemption in a manner prescribed by the department.

(c) The Department of Justice shall establish a fee of twenty dollars (\$20) per request for return of a firearm, plus a three-dollar (\$3) charge for each additional handgun being processed as part of the request to return a firearm, to cover its costs for processing firearm clearance determinations submitted pursuant to this section. The fees shall be deposited into the Dealers' Record of Sale Special Account. The department may increase the fee by using the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations to determine an annual rate of increase. Any fee increase shall be rounded to the nearest dollar.

(d) When the Department of Justice receives a completed application pursuant to subdivision (a) accompanied with the fee required pursuant to subdivision (c), it shall conduct an eligibility check of the applicant to determine whether the applicant is eligible to possess firearms.

(e)(1) If the department determines that the applicant is eligible to possess the firearm, the department shall provide the applicant with written notification that includes the following:

(A) The identity of the applicant.

(B) A statement that the applicant is eligible to possess a firearm.

(C) If the firearm is a handgun, a description of the handgun by make, model, and serial number.

(2) If the firearm is a handgun, the department shall enter a record of the handgun into the Automated Firearms System.

(3) The department shall have 30 days from the date of receipt to complete the background check unless delayed by circumstances beyond the control of the department. The applicant may contact the department to inquire about the reason for the delay.

(f) If the department denies the application, and the firearm is an otherwise legal firearm, the department shall notify the applicant of the denial and provide a form for the applicant to use to sell or transfer the firearm to a licensed dealer as defined in Section 12071. The applicant may contact the department to inquire about the reason for the denial.

(g) Notwithstanding any other provision of law, no law enforcement agency or court shall be required to retain a firearm for more than 180 days after the owner of the firearm has been notified by the court or law enforcement agency that the firearm has been made available for return. An unclaimed firearm may be disposed of after the 180-day period has expired.

(h) Notwithstanding Section 11106, the department may retain personal information about an applicant in connection with a claim for a firearm that is not a handgun to allow for law enforcement confirmation of compliance with this section. The information retained may include personal identifying information regarding the individual applying for the clearance, but may not include information that identifies any particular firearm that is not a handgun.

(i)(1) If a law enforcement agency determines that the applicant is the legal owner of any firearm deposited with the law enforcement agency and is prohibited from possessing any firearm and the firearm is an otherwise legal firearm, the applicant shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071.

(2) If the firearm has been lost or stolen, the firearm shall be restored to the lawful owner pursuant to Section 11108.5 upon his or her identification of the firearm and proof of ownership, and proof of eligibility to possess a firearm pursuant to subdivision (e). Nothing in this subdivision shall prevent the local law enforcement agency from charging the rightful owner of the firearm the fees described in subdivision (j).

(3) Subdivision (a) of Section 12070 shall not apply to deliveries, transfers, or returns of firearms made by a court or a law enforcement agency pursuant to this section.

(4) Subdivision (d) of Section 12072 shall not apply to deliveries, transfers, or returns of firearms made pursuant to this section.

(j)(1) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of firearms. The fees shall not exceed the actual costs incurred for the expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed firearms dealer or to the owner. Those administrative costs may be waived by the local or state agency upon verifiable proof that the firearm was reported stolen at the time the firearm came into the custody or control of the law enforcement agency.

(2) The following apply to any charges imposed for administrative costs pursuant to this subdivision:

(A) The charges shall only be imposed on the person claiming title to the firearms.

(B) Any charges shall be collected by the local or state authority only from the person claiming title to the firearm.

(C) The charges shall be in addition to any other

charges authorized or imposed pursuant to this code.

(D) No charge may be imposed for any hearing or appeal relating to the removal, impound, storage, or release of a firearm unless that hearing or appeal was requested in writing by the legal owner of the firearm. In addition, the charge may be imposed only upon the person requesting that hearing or appeal.

(3) No costs for any hearing or appeal related to the release of a firearm shall be charged to the legal owner who redeems the firearm unless the legal owner voluntarily requests the post storage hearing or appeal. No city, county, city and county, or state agency shall require a legal owner to request a post storage hearing as a requirement for release of the firearm to the legal owner.

(k) In a proceeding for the return of a firearm seized and not returned pursuant to this section, where the defendant or cross-defendant is a law enforcement agency, the court shall award reasonable attorney's fees to the prevailing party.

**12021.5.** (a) Every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for one, two, or three years in the court's discretion. The court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence.

(b) Every person who carries a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for two, three, or four years in the court's discretion. The court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence.

(c) As used in this section, the following definitions shall apply:

(1) "Detachable magazine" means a device that

is designed or redesigned to do all of the following:

(A) To be attached to a rifle that is designed or redesigned to fire ammunition.

(B) To be attached to, and detached from, a rifle that is designed or redesigned to fire ammunition.

(C) To feed ammunition continuously and directly into the loading mechanism of a rifle that is designed or redesigned to fire ammunition.

(2) "Detachable pistol magazine" means a device that is designed or redesigned to do all of the following:

(A) To be attached to semiautomatic firearm that is not a rifle or shotgun that is designed or redesigned to fire ammunition.

(B) To be attached to, and detached from, a firearm that is not a rifle or shotgun that is designed or redesigned to fire ammunition.

(C) To feed ammunition continuously and directly into the loading mechanism of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire ammunition.

(3) "Detachable shotgun magazine" means a device that is designed or redesigned to do all of the following:

(A) To be attached to a firearm that is designed or redesigned to fire a fixed shotgun shell through a smooth or rifled bore.

(B) To be attached to, and detached from, a firearm that is designed or redesigned to fire a fixed shotgun shell through a smooth bore.

(C) To feed fixed shotgun shells continuously and directly into the loading mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.

(4) "Belt-feeding device" means a device that is designed or redesigned to continuously feed ammunition into the loading mechanism of a machine gun or a semiautomatic firearm.

(5) "Rifle" shall have the same meaning as specified in paragraph (20) of subdivision (c) of Section 12020.

(6) "Shotgun" shall have the same meaning as specified in paragraph (21) of subdivision (c) of Section 12020.

**12022.** (a)(1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless the arming is an element of the offense. This additional term shall apply to any person

who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, or a .50 BMG rifle, as defined in Section 12078, the additional and consecutive term described in this subdivision shall be three years whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon or machinegun, or a .50 BMG rifle, whether or not the person is personally armed with an assault weapon or machinegun, or a .50 BMG rifle.

(b)(1) Any person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission of a felony or attempted felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission of a violation or attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense specified in subdivision (c), shall be punished by an additional and consecutive term of imprisonment in the state prison for one, two, or three years.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

**12022.1.** (a) For the purposes of this section only:

(1) "Primary offense" means a felony offense for which a person has been released from custody on bail or on his or her own recognizance prior to the judgment becoming final, including the disposition of any appeal, or for which release on bail or his or her own recognizance has been revoked. In cases where the court has granted a stay of execution of a county jail commitment or state prison commitment, "primary offense" also means a felony offense for which a person is out of custody during the period of time between the pronouncement of judgment and the time the person actually surrenders into custody or is otherwise returned to custody.

(2) "Secondary offense" means a felony offense alleged to have been committed while the person is released from custody for a primary offense.

(b) Any person arrested for a secondary offense which was alleged to have been committed while that person was released from custody on a primary offense shall be subject to a penalty enhancement of an additional two years in state prison which shall be served consecutive to any other term imposed by the court.

(c) The enhancement allegation provided in subdivision (b) shall be pleaded in the information or indictment which alleges the secondary offense and shall be proved as provided by law. The enhancement allegation may be pleaded in a complaint but need not be proved at the preliminary hearing or grand jury hearing.

(d) Whenever there is a conviction for the secondary offense and the enhancement is proved, and the person is sentenced on the secondary offense prior to the conviction of the primary offense, the imposition of the enhancement shall be stayed pending imposition of the sentence for the primary offense. The stay shall be lifted by the court hearing the primary offense at the time of sentencing for that offense and shall be recorded

in the abstract of judgment. If the person is acquitted of the primary offense the stay shall be permanent.

(e) If the person is convicted of a felony for the primary offense, is sentenced to state prison for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be consecutive to the primary sentence.

(f) If the person is convicted of a felony for the primary offense, is granted probation for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be enhanced as provided in subdivision (b).

(g) If the primary offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the secondary offense upon reconviction of the primary offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

**12022.2.** (a) Any person who, while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession ammunition for the firearm designed primarily to penetrate metal or armor, shall upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of 3, 4, or 10 years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(b) Any person who wears a body vest in the commission or attempted commission of a violent offense, as defined in subdivision (b) of Section 12021.1, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two or five years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(c) As used in this section, "body vest" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer.

**12022.3.** For each violation or attempted violation of Section 261, 262, 264.1, 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall receive the following:

(a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly weapon in the commission of the violation.

(b) A one-, two-, or five-year enhancement if the person is armed with a firearm or a deadly weapon. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

**12022.4.** Any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of one, two, or three years in the state prison. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

**12022.5.** (a) Except as provided in subdivision (b), any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other provisions of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a

firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

**12022.53.** (a) This section applies to the following felonies:

- (1) Section 187 (murder).
- (2) Section 203 or 205 (mayhem).
- (3) Section 207, 209, or 209.5 (kidnapping).
- (4) Section 211 (robbery).
- (5) Section 215 (carjacking).
- (6) Section 220 (assault with intent to commit a specified felony).
- (7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).
- (8) Section 261 or 262 (rape).
- (9) Section 264.1 (rape or sexual penetration in concert).
- (10) Section 286 (sodomy).
- (11) Section 288 or 288.5 (lewd act on a child).
- (12) Section 288a (oral copulation).
- (13) Section 289 (sexual penetration).
- (14) Section 4500 (assault by a life prisoner).
- (15) Section 4501 (assault by a prisoner).
- (16) Section 4503 (holding a hostage by a prisoner).
- (17) Any felony punishable by death or imprisonment in the state prison for life.
- (18) Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), and personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who, in the commission of a felony

specified in subdivision (a), personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment of for 25 years to life.

(e)(1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:

(A) The person violated subdivision (b) of Section 186.22.

(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).

(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1, shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of

Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section, and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

**12022.55.** Notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined in Section 12022.7, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall, upon conviction of a felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in a state prison for 5, 6, or 10 years.

**12022.6.** (a) When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

(1) If the loss exceeds fifty thousand dollars (\$50,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall

impose an additional term of one year.

(2) If the loss exceeds one hundred fifty thousand dollars (\$150,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

(3) If the loss exceeds one million dollars (\$1,000,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of three years.

(4) If the loss exceeds two million five hundred thousand dollars (\$2,500,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of four years.

(b) In any accusatory pleading involving multiple charges of taking, damage, or destruction, the additional terms provided in this section may be imposed if the aggregate losses to the victims from all felonies exceed the amounts specified in this section and arise from a common scheme or plan. All pleadings under this section shall remain subject to the rules of joinder and severance stated in Section 954.

(c) The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(d) This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7. This section shall also apply to applicable prosecutions for a violation of Section 350, 653h, 653s, or 653w.

(e) For the purposes of this section, the term “loss” has the following meanings:

(1) When counterfeit items of computer software are manufactured or possessed for sale, the “loss” from the counterfeiting of those items shall be equivalent to the retail price or fair market value of the true items that are counterfeited.

(2) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the “loss” from the counterfeiting of those components of computer software packages shall be equivalent to the retail price or fair market value of the number of completed computer software packages that could have been made from those components.

(f) It is the intent of the Legislature that the



provisions of this section be reviewed within 10 years to consider the effects of inflation on the additional terms imposed. For that reason, this section shall remain in effect only until January 1, 2008, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

**12022.7.** (a) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three years, unless infliction of great bodily injury is an element of the offense of which he or she is convicted.

(b) Any person found to have inflicted great bodily injury pursuant to subdivision (a) which causes the victim to become comatose due to brain injury or to suffer paralysis, as defined in Section 12022.9, of a permanent nature, shall be punished by an additional and consecutive term of five years.

(c) Any person who personally inflicts great bodily injury on another person who is 70 years of age or older other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of five years, unless infliction of great bodily injury is an element of the offense of which he or she is convicted.

(d) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three, four, or five years. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing. As used in this section, "domestic violence" has the meaning provided in subdivision (b) of Section 13700.

(e) As used in this section, "great bodily injury" means a significant or substantial physical injury.

(f) This section shall not apply to murder or manslaughter or a violation of Section 451 or 452. The additional term provided in this section shall not be imposed unless the fact of great bodily injury is

charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(g) The court shall impose the additional terms of imprisonment under either subdivision (a), (b), or (c), but may not impose more than one of those terms for the same offense.

**12022.75.** Any person who, for the purpose of committing a felony, administers by injection, inhalation, ingestion, or any other means, any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person, shall, in addition and consecutive to the penalty provided for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three years.

**12022.8.** Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each such violation in addition to the sentence provided for the felony conviction.

**12022.85.** (a) Any person who violates one or more of the offenses listed in subdivision (b) with knowledge that he or she has acquired immune deficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of those offenses, shall receive a three-year enhancement for each such violation in addition to the sentence provided under those sections.

(b) Subdivision (a) applies to the following crimes:

(1) Rape in violation of Section 261.

(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5.

(3) Rape of a spouse in violation of Section 262.

(4) Sodomy in violation of Section 286.

(5) Oral copulation in violation of Section 288a.

(c) For purposes of proving the knowledge requirement of this section, the prosecuting attorney may use test results received under subdivision (c) of

Section 1202.1 or subdivision (g) of Section 1202.6.

**12022.9.** (a) Any person who, during the commission or attempted commission of a felony, knows or reasonably should know that the victim is pregnant, and who, with intent to inflict injury, and without the consent of the woman, personally inflicts injury upon a pregnant woman that results in the termination of the pregnancy shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of five years in the state prison. The additional term provided in this subdivision shall not be imposed unless the fact of that injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Nothing in this subdivision shall be construed as affecting the applicability of subdivision (a) of Section 187 of the Penal Code.

(b)(1) Any person convicted of a violation of subdivision (c) of Section 12034 shall, in addition and consecutive to the punishment for that violation, be punished by an additional term of four years, if as a result of the defendant personally and willfully and maliciously discharging the firearm, the victim suffers paralysis or paraparesis of a major body part, including, but not limited to, the entire hand or foot.

(2) Any person convicted of a violation of Section 246 shall, in addition and consecutive to the punishment for that violation, be punished by an additional term of four years, if as a result of the defendant personally and willfully and maliciously discharging the firearm at an occupied motor vehicle from another motor vehicle, the victim suffers paralysis or paraparesis of a major body part, including, but not limited to, the entire hand or foot.

(3) For purposes of this subdivision:

(A) "Paralysis" means a major or complete loss of motor function resulting from injury to the nervous system or to a muscular mechanism.

(B) "Paraparesis" means a significant weakness of a major body part, including, but not limited to, the entire hand or foot, causing the extremity to be functionally impaired and rendered useless to assist with one of the basic skills in life such as eating or walking.

(C) The additional term provided in this section shall not be imposed unless the fact of the injury is charged in an accusatory pleading and admitted or found to be true by the trier of fact.

**12022.95.** Any person convicted of a violation

of Section 273a, who under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or injury that results in death, or having the care or custody of any child, under circumstances likely to produce great bodily harm or death, willfully causes or permits that child to be injured or harmed, and that injury or harm results in death, shall receive a four-year enhancement for each violation, in addition to the sentence provided for that conviction. Nothing in this paragraph shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 192. This section shall not apply unless the allegation is included within an accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

**12023.** (a) Every person who carries a loaded firearm with the intent to commit a felony is guilty of armed criminal action.

(b) Armed criminal action is punishable by imprisonment in a county jail not exceeding one year, or in the state prison.

**12024.** Every person having upon him or her any deadly weapon, with intent to assault another, is guilty of a misdemeanor.

**12025.** (a) A person is guilty of carrying a concealed firearm when he or she does any of the following:

(1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) Carrying a concealed firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of

Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, as defined in this section, or the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(5) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(6) By imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment if both of the following conditions are met:

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are either in the immediate possession of the person or readily accessible to that person, or the pistol, revolver, or other firearm capable of being concealed upon the person is loaded as defined in subdivision (g) of Section 12031.

(B) The person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(7) In all cases other than those specified in paragraphs (1) to (6) inclusive, by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (b) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

(d)(1) Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 12001.6

shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by this chapter, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivision (d), except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivision (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivision (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(f) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(g) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(h)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

**12025.5.** (a) A violation of Section 12025 is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This section may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

(b) Upon trial for violating Section 12025, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

**12026.** (a) Section 12025 shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed, anywhere within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

(c) Nothing in this section shall be construed as affecting the application of Section 12031.

**12026.1.** (a) Section 12025 shall not be construed to prohibit any citizen of the United States

over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(c) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

**12026.2.** (a) Section 12025 does not apply to, or affect, any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to, or coming directly from, that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to, and coming directly from, those meetings.

(3) The transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person listed in Section 12026 directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale,

or loan of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to, or coming directly from, a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(12) The transportation of a firearm by a person in order to comply with subdivision (c) or (i) of Section 12078 as it pertains to that firearm.

(13) The transportation of a firearm by a person in order to utilize subdivision (l) of Section 12078 as it pertains to that firearm.

(14) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 478.100 of Title 27

of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with subdivision (d) of Section 12072.

(15) The transportation of a firearm by a person in order to utilize paragraph (6) of subdivision (a) of Section 12078 as it pertains to that firearm.

(16) The transportation of a firearm by a person who finds the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm and if that firearm is being transported to a law enforcement agency, the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency.

(17) The transportation of a firearm by a person in order to comply with paragraph (2) of subdivision (f) of Section 12072 as it pertains to that firearm.

(18) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to the law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to the law.

(19) The transportation of a firearm by a person in order to comply with paragraph (3) of subdivision (f) of Section 12072 as it pertains to that firearm.

(20) The transportation of a firearm by a person for the purpose of obtaining an identification number or mark assigned for that firearm from the Department of Justice pursuant to Section 12092.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

**12027.** Section 12025 does not apply to, or affect, any of the following:

(a)(1)(A) Any peace officer, listed in Section

830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this subdivision. As used in this section and Section 12031, the term "honorably retired" includes all peace officers who have qualified for, and have accepted, a service or disability retirement. For purposes of this section and Section 12031, the term "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination.

(B) Any officer, except an officer listed in Section 830.1, 830.2, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(D) A certificate issued pursuant to this paragraph for persons who are not listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 or for persons retiring after January 1, 1981, shall be in the following format: it shall be on a 2X3 inch card, bear the photograph of the retiree, the retiree's name, address, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped on it the endorsement "CCW

Approved" and the date the endorsement is to be renewed.

(E) For purposes of this section and Section 12031, "CCW" means "carry concealed weapons."

(2) A retired peace officer, except an officer listed in Section 830.1, 830.2, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke, for good cause the retired officer's privilege to carry a concealed firearm. A peace officer who is listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have his or her privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive those weapons from the United States or this state.

(d) The carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the

person by duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or transporting these firearms unloaded when going to and from the ranges.

(g) Licensed hunters or fishermen carrying pistols, revolvers, or other firearms capable of being concealed upon the person while engaged in hunting or fishing, or transporting those firearms unloaded when going to or returning from the hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm. Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed

firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(j) The carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Article 3 (commencing with Section 12050).

**12027.1.** (a)(1)(A)(i) Any peace officer employed by an agency and listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed and loaded firearm.

(ii) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate has not been stamped as specified in paragraph (2) of subdivision (a) of Section 12027.

(iii) Peace officers not listed in clause (i) or (ii) who were authorized to, and did, carry firearms during the course and scope of their employment as peace officers, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed and loaded firearm.

(B) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement on the certificate may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in subdivision (d).

(2) A retired peace officer may have his or her privilege to carry a concealed and loaded firearm revoked or denied by violating any departmental rule, or state or federal law that, if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from the agency.

(b)(1) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in subdivision (d).

(2) An identification certificate authorizing the

officer to carry a concealed and loaded firearm or an endorsement may be revoked only after a hearing, as specified in subdivision (d). Any retired peace officer whose identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement is to be revoked shall have 15 days to respond to the notice of the hearing. Notice of the hearing shall be served either personally on the retiree or sent by first-class mail, postage prepaid, return receipt requested to the retiree's last known place of residence. Upon the date the agency receives the signed registered receipt or upon the date the notice is served personally on the retiree, the retiree shall have 15 days to respond to the notification. A retired peace officer who fails to respond to the notice of the hearing shall forfeit his or her right to respond.

(3) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be denied prior to a hearing. If a hearing is not conducted prior to the denial of an endorsement, a retired peace officer, within 15 days of the denial, shall have the right to request a hearing. A retired peace officer who fails to request a hearing pursuant to this paragraph shall forfeit his or her right to the hearing.

(c) A retired peace officer, when notified of the revocation of his or her privilege to carry a concealed and loaded firearm, after the hearing, or upon forfeiting his or her right to a hearing, shall immediately surrender to the issuing agency his or her identification certificate. The issuing agency shall reissue a new identification certificate without an endorsement. However, if the peace officer retired prior to January 1, 1981, and was at the time of his or her retirement a peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the identification certificate "No CCW privilege."

(d) Any hearing conducted under this section shall be held before a three-member board. One member of the board shall be selected by the agency and one member shall be selected by the retired peace officer or his or her employee organization. The third member shall be selected jointly by the agency and the retired peace officer or his or her employee organization. Any decision by the board shall be binding on the agency and the retired peace officer.

(e) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed and loaded firearm pursuant to this section.

**12028.** (a) The unlawful concealed carrying upon the person of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful carrying of any handguns in violation of Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b)(1) Except as provided in paragraph (2), a firearm of any nature owned or possessed in violation of Section 12021, 12021.1, or 12101 of this code, or Chapter 3 (commencing with Section 8100) of Division 5 of the Welfare and Institutions Code, or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(2) A firearm is not a nuisance pursuant to this subdivision if the firearm owner disposes of his or her firearm pursuant to paragraph (2) of subdivision (d) of Section 12021.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b) shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the chief of police of any campus of the University of California or the California State University or the Commissioner of the California Highway Patrol. For purposes of this subdivision, the Commissioner of the California Highway Patrol shall receive only weapons that were confiscated by a member of the California Highway Patrol. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Section 12071 to engage in businesses involving any weapon purchased.



If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Section 12021.3.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c), the weapon, in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, shall be destroyed so that it can no longer be used as such a weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

**12028.5.** (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means any of the following:

(A) Intentionally or recklessly to cause or attempt to cause bodily injury.

(B) Sexual assault.

(C) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(D) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

(2) "Domestic violence" means abuse perpetrated against any of the following persons:

(A) A spouse or former spouse.

(B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.

(C) A person with whom the respondent is

having or has had a dating or engagement relationship.

(D) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(E) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(F) Any other person related by consanguinity or affinity within the second degree.

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, a peace officer as defined in subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in Section 830.5, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered, the time limit for recovery as required by this section, and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (f), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained

because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than five business days after the owner or person who was in lawful possession demonstrates compliance with Section 12021.3. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within five business days following the initial seizure, except as provided in subdivision (d), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this section shall deliver the firearm within 24 hours to the city police department or county sheriff's office in the jurisdiction where the college or school is located.

(d) Any firearm or other deadly weapon that has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership, and after the law enforcement agency has complied with Section 12021.3.

(e) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (j), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(f) In those cases in which a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 60

days of the date of seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 90 days of the date of seizure of the firearm or other deadly weapon.

(g) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(h) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by a preponderance of the evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(i) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(j) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If there is a petition for a second hearing, unless it is shown by clear and convincing evidence that the return of the firearm or

other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(k) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

**12028.7.** (a) When a firearm is taken into custody by a law enforcement officer, the officer shall issue the person who possessed the firearm a receipt describing the firearm, and listing any serial number or other identification on the firearm.

(b) The receipt shall indicate where the firearm may be recovered, any applicable time limit for recovery, and the date after which the owner or possessor may recover the firearm, pursuant to Section 12021.3.

(c) Nothing in this section is intended to displace any existing law regarding the seizure or return of firearms.

**12029.** Except as provided in Section 12020, blackjacks, slungshots, billies, nunchakus, sandclubs, sandbags, shurikens, metal knuckles, short-barreled shotguns or short-barreled rifles as defined in Section 12020, and any other item which is listed in subdivision (a) of Section 12020 and is not listed in subdivision (a) of Section 12028 are nuisances, and the Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving lending, or possession of, any of the foregoing items. These weapons shall be subject to confiscation and summary destruction whenever found within the state. These weapons shall be destroyed in the same manner as other weapons described in Section 12028, except that upon the certification of a judge or of the district attorney that the ends of justice will be subserved thereby, the weapon shall be preserved until the necessity for its use ceases.

**12030.** (a) The officer having custody of any firearms which may be useful to the California National Guard, the Coast Guard Auxiliary, or to any military or

naval agency of the federal or state government, including, but not limited to, the California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which he or she is employed and the approval of the Adjutant General, deliver the firearms to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his or her office as a public record.

(b) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may release them to any other law enforcement agency for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office any weapons which may be useful in carrying out the official duties of their respective agencies.

(c) Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties. In the case of firearms or weaponry donated to the California National Guard military museum and resource center, they may be disposed of pursuant to Section 179 of the Military and Veterans Code.

(d) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the firearms, obtain an order from the superior court directing the release of the firearms to the sheriff. The sheriff shall enter those weapons into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, with a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the academy receiving the weapon entered into the AFS miscellaneous field. The sheriff shall then release the firearms to the basic training academy certified by the Commission on Peace Officer Standards

and Training, so that the firearms may be used for instructional purposes in the certified courses. As used in this section, the term "firearms" shall not include destructive devices, as defined in Section 12301. All firearms released to an academy shall be under the care, custody, and control of the particular academy.

Any firearm, or part of any firearm, which is not destroyed, and is used for the purposes authorized by this section, shall be returned to the law enforcement agency which had original custody of the firearm when it is no longer needed by the basic training academy, or when the basic training academy is no longer certified by the commission. When those firearms are returned, the law enforcement agency to whom the firearms are returned, shall on the date of the return, enter into the Automated Firearms System (AFS), via the California Law Enforcement Telecommunications System, a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the entity returning the firearm.

(e) Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

**12031.** (a)(1) A person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(2) Carrying a loaded firearm in violation of this section is punishable, as follows:

(A) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(B) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(C) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(D) Where the person is not in lawful possession of the firearm, as defined in this section, or

is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(E) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(F) Where the person is not listed with the Department of Justice pursuant to Section 11106, as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

(G) In all cases other than those specified in subparagraphs (A) to (F), inclusive, as a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully acquired and lawfully owns the firearm or has the permission of the lawful owner or person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(4) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(5)(A) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(i) When the person arrested has violated this section, although not in the officer's presence.

(ii) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(B) A peace officer may arrest a person for a violation of subparagraph (F) of paragraph (2), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in

violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(6)(A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(7) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922 (g)(1) of Title 18 of the United States Code.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses

incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a loaded firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a loaded firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate, "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide

subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require

recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 14502 of the Corporations Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a

nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j)(1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

(m)(1) The district attorney of each county shall

submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative only until January 1, 2005.

**12031.1.** Nothing in Section 12031 shall prevent any person from storing aboard any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress signaling purposes, or from possessing such a device while in a permitted hunting area or traveling to or from such area and carrying a valid California permit or license to hunt.

**12032.** Notwithstanding any provision of law or of any local ordinance to the contrary, when any firearm is in the possession of any officer of the state, or of a county, city and county or city, or of any campus of the University of California or the California State University, and the firearm is an exhibit filed in any criminal action or proceeding which is no longer needed or is unclaimed or abandoned property, which has been in the possession of the officer for at least 180 days, the firearm shall be sold, or destroyed, as provided for in Section 12028.

This section shall not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of law, or regulation thereunder, in the Fish and Game Code.

**12033.** The Department of Consumer Affairs may issue a certificate to any person referred to in subdivision (d) of Section 12031, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest which meet the standards prescribed by the department pursuant to Section 7583.5 of the Business and Professions Code.

**12034.** (a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying

the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the Fish and Game Code.

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.

(c) Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle is guilty of a felony punishable by imprisonment in state prison for three, five, or seven years.

(d) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.

**12035.** (a) As used in this section, the following definitions apply:

(1) "Locking device" means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.

(2) "Loaded firearm" has the same meaning as set forth in subdivision (g) of Section 12031.

(3) "Child" means a person under 18 years of age.

(4) "Great bodily injury" has the same meaning as set forth in Section 12022.7.

(5) "Locked container" has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b)(1) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the first degree" if he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the second degree" if he or she keeps any loaded firearm within any premises that are under his or her custody or control and he or she knows or



reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or carries the firearm either to a public place or in violation of Section 417.

(c) Subdivision (b) shall not apply whenever any of the following occurs:

(1) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(2) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.

(3) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.

(4) The firearm is locked with a locking device that has rendered the firearm inoperable.

(5) The person is a peace officer or a member of the armed forces or National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

(6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person, or persons.

(7) The person who keeps a loaded firearm on any premise that is under his or her custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

(d) Criminal storage of a firearm is punishable as follows:

(1) Criminal storage of a firearm in the first degree, by imprisonment in the state prison for 16 months, or two or three years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(2) Criminal storage of a firearm in the second degree, by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when

deciding whether to prosecute an alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subdivision shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of this section.

(f) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon which the accidental shooting occurred.

In addition to the limitation contained in this subdivision, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. The intent of this subdivision is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(g)(1) The fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be considered a mitigating factor by a district attorney when he or she is deciding whether to prosecute the alleged violation.

(2) In any action or trial commenced under this section, the fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section, shall be admissible.

(h) Every person licensed under Section 12071 shall post within the licensed premises the notice required by paragraph (7) of subdivision (b) of that section, disclosing the duty imposed by this section upon any person who keeps a loaded firearm.

**12036.** (a) As used in this section, the following definitions shall apply:

(1) "Locking device" means a device that is designed to prevent the firearm from functioning and when applied to the firearm, renders the firearm inoperable.

(2) “Child” means a person under the age of 18 years.

(3) “Off-premises” means premises other than the premises where the firearm was stored.

(4) “Locked container” has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) A person who keeps a pistol, revolver, or other firearm capable of being concealed upon the person, loaded or unloaded, within any premises that are under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to that firearm without the permission of the child’s parent or legal guardian and the child obtains access to that firearm and thereafter carries that firearm off-premises, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) A person who keeps any firearm within any premises that is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian and the child obtains access to the firearm and thereafter carries that firearm off-premises to any public or private preschool, elementary school, middle school, high school, or to any school-sponsored event, activity, or performance whether occurring on school grounds or elsewhere, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding five thousand dollars (\$5,000), or by both that imprisonment and fine.

(d) A pistol, revolver, or other firearm capable of being concealed upon the person that a child gains access to and carries off-premises in violation of this section shall be deemed “used in the commission of any misdemeanor as provided in this code or any felony” for the purpose of subdivision (b) of Section 12028 regarding the authority to confiscate firearms and other deadly weapons as a nuisance.

(e) This section shall not apply if any one of the following circumstances exists:

(1) The child obtains the firearm as a result of an illegal entry into any premises by any person.

(2) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.

(3) The firearm is locked with a locking device that has rendered the firearm inoperable.

(4) The firearm is carried on the person within such a close range that the individual can readily retrieve and use the firearm as if carried on the person.

(5) The person is a peace officer or a member of the Armed Forces or National Guard and the child obtains the firearm during, or incidental to, the performance of the person’s duties.

(6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person or persons.

(7) The person who keeps a firearm has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

(f) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when deciding whether to prosecute the alleged violation. It is the Legislature’s intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subdivision shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of this section.

(g) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon which the accidental shooting occurred.

In addition to the limitation contained in this subdivision, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. The intent of this subdivision is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(h)(1) The fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be considered a mitigating factor by a district attorney when he or she is deciding whether to prosecute the alleged violation.

(2) In any action or trial commenced under this section, the fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section, shall be admissible.

(i) Every person licensed under Section 12071 shall post within the licensed premises the notice required by paragraph (7) of subdivision (b) of that section, disclosing the duty imposed by this section upon any person who keeps any firearm.

**12039.** The Attorney General shall provide the Legislature on or before April 15 of each year, commencing in 1998, a written report on the specific types of firearms used in the commission of crimes based upon information obtained from state and local crime laboratories. The report shall include all of the following information regarding crimes in which firearms were used:

(a) A description of the relative occurrence of firearms most frequently used in the commission of violent crimes, distinguishing whether the firearms used were handguns, rifles, shotguns, assault weapons, or other related types of weapons.

(b) A description of specific types of firearms that are used in homicides or street gang and drug trafficking crimes.

(c) The frequency with which stolen firearms were used in the commission of the crimes.

(d) The frequency with which fully automatic firearms were used in the commission of the crimes.

(e) Any trends of importance such as those involving specialized ammunition or firearms modifications, such as conversion to a fully automatic weapon, removal of serial number, shortening of barrel, or use of a suppressor.

**12040.** (a) A person commits criminal possession of a firearm when he or she carries a firearm in a public place or on any public street while masked so as to hide his or her identity.

(b) Criminal possession of a firearm is punishable by imprisonment in the state prison or by imprisonment in a county jail not to exceed one year.

(c) Subdivision (a) shall not apply to the following:

(1) A peace officer who is in the performance of his or her duties.

(2) Full-time paid peace officers of other states and the federal government who are carrying out official duties while in this state.

(3) Any person summoned by any of the

officers enumerated in paragraph (1) or (2) to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer.

(4) The possession of an unloaded firearm or a firearm loaded with blank ammunition by an authorized participant in, or while rehearsing for, a motion picture, television, video production, entertainment event, entertainment activity, or lawfully organized and conducted activity when the participant lawfully uses the firearm as part of that production, event, or activity.

(5) The possession of a firearm by a licensed hunter while actually engaged in lawful hunting, or while going directly to or returning directly from the hunting expedition.

### **ARTICLE 3. LICENSES TO CARRY PISTOLS AND REVOLVERS**

**12050.** (a)(1)(A) The sheriff of a county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying satisfies any one of the conditions specified in subparagraph (D) and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of that city, and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county in which the city is located is less than 200,000 persons according

to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a person who has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or other head of a municipal police department, may issue to that person a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person. Direct or indirect fees for the issuance of a license pursuant to this subparagraph may be waived. The fact that an applicant for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of issuing a license pursuant to this subparagraph, and shall not be considered for the purpose of issuing a license pursuant to subparagraph (A) or (B).

(D) For the purpose of subparagraph (A), the applicant shall satisfy any one of the following:

(i) Is a resident of the county or a city within the county.

(ii) Spends a substantial period of time in the applicant's principal place of employment or business in the county or a city within the county.

(E)(i) For new license applicants, the course of training may be any course acceptable to the licensing authority, shall not exceed 16 hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. Notwithstanding this clause, the licensing authority may require a community college course certified by the Commission on Peace Officer Standards and Training, up to a maximum of 24 hours, but only if required uniformly of all license applicants without exception.

(ii) For license renewal applicants, the course of training may be any course acceptable to the licensing authority, shall be no less than four hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. No course of training shall be required for any person certified by the licensing authority as a trainer for purposes of this subparagraph, in order for that person to renew a license issued pursuant to this section.

(2)(A)(i) Except as otherwise provided in clause (ii), subparagraphs (C) and (D) of this paragraph, and subparagraph (B) of paragraph (4) of subdivision (f), a license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed two years from the date of the license.

(ii) If the licensee's place of employment or business was the basis for issuance of the license pursuant to subparagraph (A) of paragraph (1), the license is valid for any period of time not to exceed 90 days from the date of the license. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which he or she resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(B) A license issued pursuant to subparagraph (C) of paragraph (1) to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(C) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

(i) A judge of a California court of record.

(ii) A full-time court commissioner of a California court of record.

(iii) A judge of a federal court.

(iv) A magistrate of a federal court.

(D) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person's employment pursuant to

Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(3) For purposes of this subdivision, a city or county may be considered an applicant's "principal place of employment or business" only if the applicant is physically present in the jurisdiction during a substantial part of his or her working hours for purposes of that employment or business.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued.

(d) A license shall not be issued if the Department of Justice determines that the person is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(e)(1) The license shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, or the local licensing authority determines that the person is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) If at any time the Department of Justice determines that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, the department shall immediately notify the local licensing authority of the determination.

(3) If the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation pursuant to Section 12053. The licensee shall also be immediately notified of the revocation in writing.

(f)(1) A person issued a license pursuant to this section may apply to the licensing authority for an amendment to the license to do one or more of the following:

(A) Add or delete authority to carry a particular pistol, revolver, or other firearm capable of being concealed upon the person.

(B) Authorize the licensee to carry concealed a

pistol, revolver, or other firearm capable of being concealed upon the person.

(C) If the population of the county is less than 200,000 persons according to the most recent federal decennial census, authorize the licensee to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) Change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) When the licensee changes his or her address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to paragraph (3).

(3) If the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments.

(4)(A) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee's place of residence.

(B) If the license is one to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, then it may not be revoked solely because the licensee changes his or her place of residence to another county if the licensee has not breached any conditions or restrictions set forth in the license or has not fallen into a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. However, any license issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a) shall expire 90 days after the licensee moves from the county of issuance if the licensee's place of residence was the basis for issuance of the license.

(C) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately if the licensee changes his or her place of residence to another county.

(5) An amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended.

(6) An application to amend a license does not constitute an application for renewal of the license.

(g) Nothing in this article shall preclude the chief or other head of a municipal police department of any city from entering an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, renewals of

licenses, and amendments to licenses, pursuant to this article.

**12050.2.** Within three months of the effective date of the act adding this section, each licensing authority shall publish and make available a written policy summarizing the provisions of subparagraphs (A) and (B) of paragraph (1) of subdivision (a) of Section 12050.

**12051.** (a)(1) The standard application form for licenses described in paragraph (3) shall require information from the applicant including, but not limited to, the name, occupation, residence and business address of the applicant, his or her age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Applications for licenses shall be filed in writing, and signed by the applicant. Any license issued upon the application shall set forth the licensee's name, occupation, residence and business address, his or her age, height, weight, color of eyes and hair, the reason for desiring a license to carry the weapon, and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber. The license issued to the licensee may be laminated.

(2) Applications for amendments to licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought pursuant to subdivision (f) of Section 12050 and the reason for desiring the amendment.

(3)(A) Applications for amendments to licenses, applications for licenses, amendments to licenses, and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. The Attorney General shall convene a committee composed of one representative of the California State Sheriffs' Association, one representative of the California Police Chiefs' Association, and one representative of the Department of Justice to review, and as deemed appropriate, revise the standard application form for licenses. The committee shall meet for this purpose if two of the committee's members deem that necessary. The application shall include a section summarizing the statutory provisions of state law that result in the automatic denial of a license.

(B) The forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(C) An applicant shall not be required to

complete any additional application or form for a license, or to provide any information other than that necessary to complete the standard application form described in subparagraph (A), except to clarify or interpret information provided by the applicant on the standard application form.

(D) The standard application form described in subparagraph (A) is deemed to be a local form expressly exempt from the requirements of the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor.

(c) Any person who knowingly makes a false statement on the application regarding any of the following shall be guilty of a felony:

(1) The denial or revocation of a license, or the denial of an amendment to a license, issued pursuant to Section 12050.

(2) A criminal conviction.

(3) A finding of not guilty by reason of insanity.

(4) The use of a controlled substance.

(5) A dishonorable discharge from military service.

(6) A commitment to a mental institution.

(7) A renunciation of United States citizenship.

**12052.** (a) The fingerprints of each applicant shall be taken and two copies on forms prescribed by the Department of Justice shall be forwarded to the department. Upon receipt of the fingerprints and the fee as prescribed in Section 12054, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing, receiving, owning, or purchasing a firearm. No license shall be issued by any licensing authority until after receipt of the report from the department.

(b) However, if the license applicant has previously applied to the same licensing authority for a license to carry firearms pursuant to Section 12050 and the applicant's fingerprints and fee have been previously forwarded to the Department of Justice, as provided by this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the

Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 12053 and no additional application form or fingerprints shall be required.

(c) If the license applicant has a license issued pursuant to Section 12050 and the applicant's fingerprints have been previously forwarded to the Department of Justice, as provided in this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the Department in conformance with Section 12053 and no additional fingerprints shall be required.

**12052.5.** The licensing authority shall give written notice to the applicant indicating if the license is approved or denied within 90 days of the initial application for a new license or a license renewal or 30 days after receipt of the applicant's criminal background check from the Department of Justice, whichever is later.

**12053.** (a) A record of the following shall be maintained in the office of the licensing authority:

- (1) The denial of a license.
- (2) The denial of an amendment to a license.
- (3) The issuance of a license.
- (4) The amendment of a license.
- (5) The revocation of a license.

(b) Copies of each of the following shall be filed immediately by the issuing officer or authority with the Department of Justice:

- (1) The denial of a license.
- (2) The denial of an amendment to a license.
- (3) The issuance of a license.
- (4) The amendment of a license.
- (5) The revocation of a license.

(c) Commencing on or before January 1, 2000, and annually thereafter, each licensing authority shall submit to the Attorney General the total number of licenses issued to peace officers, pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 12050, and to judges, pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a) of Section 12050. The Attorney General shall collect and record the information submitted pursuant to this subdivision by county and licensing authority.

**12054.** (a) Each applicant for a new license or for the renewal of a license shall pay at the time of filing his or her application a fee determined by the

Department of Justice not to exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 12052. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The licensing authority of any city, city and county, or county may charge an additional fee, in an amount equal to the actual costs for processing the application for a new license, excluding fingerprint and training costs, but in no case to exceed one hundred dollars (\$100), and shall transmit the additional fee, if any, to the city, city and county, or county treasury. The first 20 percent of this additional local fee may be collected upon filing of the initial application. The balance of the fee shall be collected only upon issuance of the license.

The licensing authority may charge an additional fee, not to exceed twenty-five dollars (\$25), for processing the application for a license renewal, and shall transmit an additional fee, if any, to the city, city and county, or county treasury. These local fees may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

(b) In the case of an amended license pursuant to subdivision (f) of Section 12050, the licensing authority of any city, city and county, or county may charge a fee, not to exceed ten dollars (\$10), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations, for processing the amended license and shall transmit the fee to the city, city and county, or county treasury.

(c) If psychological testing on the initial application is required by the licensing authority, the license applicant shall be referred to a licensed psychologist used by the licensing authority for the psychological testing of its own employees. The applicant may be charged for the actual cost of the testing in an amount not to exceed one hundred fifty dollars (\$150). Additional psychological testing of an applicant seeking license renewal shall be required only if there is compelling evidence to indicate that a test is necessary. The cost to the applicant for this additional testing shall not exceed one hundred fifty dollars (\$150).

(d) Except as authorized pursuant to subdivisions (a), (b), and (c), no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant may be imposed by any licensing authority as a condition of the application for a license.

#### **ARTICLE 4. LICENSES TO SELL FIREARMS**

**12070.** (a) No person shall sell, lease, or transfer firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) Subdivision (a) does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to operation of law, a court order, or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) A person acting pursuant to subdivision (e) of Section 186.22a or subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest or as a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer of firearms.

(5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in Section 12071, and provided all the sales, leases, or transfers fully comply with subdivision (d) of Section 12072. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

A person described in this paragraph shall be

known as a "Gun Show Trader." The Department of Justice shall adopt regulations to administer this program and shall recover the full costs of administration from fees assessed applicants.

As used in this paragraph, the term "used firearm" means a firearm that has been sold previously at retail and is more than three years old.

(6) Deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(7) The sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto to dealers or wholesalers.

(8) Deliveries and transfers of firearms made pursuant to Section 12028, 12028.5, or 12030.

(9) The loan of a firearm for the purposes of shooting at targets, if the loan occurs on the premises of a target facility which holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(10) Sales, deliveries, or transfers of firearms by manufacturers, importers, or wholesalers licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(11) Sales, deliveries, or transfers of firearms by persons who reside outside this state and are licensed outside this state pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto to wholesalers, manufacturers, or importers, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(12) Sales, deliveries, or transfers of firearms by



wholesalers to dealers.

(13) Sales, deliveries, or transfers of firearms by persons who reside outside this state to persons licensed pursuant to Section 12071, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(14) Sales, deliveries, or transfers of firearms by persons who reside outside this state and are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto to dealers, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(15) The delivery, sale, or transfer of an unloaded firearm by one wholesaler to another wholesaler if that firearm is intended as merchandise in the receiving wholesaler's business.

(16) The loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or video production or entertainment or theatrical event.

(17) The delivery of an unloaded firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, by a person licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto with a current certificate of eligibility issued pursuant to Section 12071 to a dealer.

(c)(1) As used in this section, "infrequent" means:

(A) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(B) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

(2) As used in this section, "operation of law" includes, but is not limited to, any of the following:

(A) The executor or administrator of an estate, if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver, if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties, if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property between spouses pursuant to Section 850 of the Family Code.

(H) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(I) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

**12071.** (a)(1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice and the Department of Justice shall issue a certificate to an applicant if the department's records indicate that the

applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1)(A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this

subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or

imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF- PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE

KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may

deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange, red, or other readily identifiable dummy round into the magazine. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange, red, or other readily identifiable dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h)

of Section 12132.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has

determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department-certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department-certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), all firearms that are in the inventory of the licensee shall be kept within the licensed location. The licensee shall report

the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms should be secured using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt-cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18)(A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 478.102(c) of Title 27 of the Code of Federal Regulations.

(20)(A) Firearms dealers may require any agent who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the department pursuant to paragraph (4) of subdivision (a). The agent or employee shall provide on the application, the name and California firearms dealer number of the firearms dealer with whom he or she is employed.

(B) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(C) If the local jurisdiction requires a background check of the agents or employees of the firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subparagraph (A).

(D) Nothing in this paragraph shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105 or prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility, provided however, that the local jurisdiction may not charge a fee for the additional criminal history check.

(E) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination,

code, or other means to open any of the locking devices described in clause (ii) of subparagraph (G) of this paragraph.

(F) Nothing in this paragraph shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.

(G) For purposes of this section, the following definitions shall apply:

(i) An "agent" is an employee of the licensee.

(ii) "Secured" means a firearm that is made inoperable in one or more of the following ways:

(I) The firearm is inoperable because it is secured by a firearms safety device listed on the department's roster of approved firearms safety devices pursuant to subdivision (d) of Section 12088 of this chapter.

(II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards for department-approved gun safes set forth in Section 12088.2.

(III) The firearm is stored in a distinct locked room or area in the building that is used to store firearms that can only be unlocked by a key, a combination, or similar means.

(IV) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt\_ cutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(c)(1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least 1/2-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the

door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 478.124, Section 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e)(1) Except as otherwise provided in this paragraph, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a), ~~and all persons who have submitted information pursuant to subdivision (a) of Section 42083.~~ The department may remove from this list any person who knowingly or with gross negligence

violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located.

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.

(3) Information compiled from the list shall be made available, upon request, for one of the following purposes only:

(A) For law enforcement purposes.

(B) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(C) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b)

(4) Information provided pursuant to paragraph (3) shall be limited to information necessary to corroborate an individual's current license status as being one of the following:

(A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who is not subject to the requirement that he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the

business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

~~(i)(1) For every verification inquiry made pursuant to paragraph (1) of subdivision (f) of Section 12072, the department shall determine whether the intended recipient possesses an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and, if applicable, is properly licensed pursuant to this section.~~

~~————(2) If the intended recipient possesses an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and if applicable, is properly licensed pursuant to this section, the department shall immediately provide a unique verification number to the inquiring party.~~

~~————(3) If the intended recipient does not possess an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or if applicable, is not properly licensed pursuant to this section, the department shall do all of the following:~~

~~————(A) Immediately notify the inquiring party of that fact.~~

~~————(B) Within 24 hours, notify the chief law enforcement officer of the jurisdiction where the~~

~~address on the federal firearms license about which the inquiry was made is located, and notify an appropriate employee of the federal Bureau of Alcohol, Tobacco and Firearms of the denied verification.~~

**12071.1.** (a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, unless that person possesses a valid certificate of eligibility from the Department of Justice. Unless the department's records indicate that the applicant is a person prohibited from possessing firearms, a certificate of eligibility shall be issued by the Department of Justice to an applicant provided the applicant does all of the following:

(1) Certifies that he or she is familiar with the provisions of this section and Section 12071.4.

(2) Ensures that liability insurance is in effect for the duration of an event or show in an amount of not less than one million dollars (\$1,000,000).

(3) Provides an annual list of the gun shows or events that the applicant plans to promote, produce, sponsor, operate, or otherwise organize during the year for which the certificate of eligibility is issued, including the date, time, and location of the gun shows or events.

(b) If during that year the information required by paragraph (3) of subdivision (a) changes, or additional gun shows or events will be promoted, produced, sponsored, operated, or otherwise organized by the applicant, the producer shall notify the Department of Justice no later than 30 days prior to the gun show or event.

(c) As used in this section, a "licensed gun show producer" means a person who has been issued a certificate of eligibility by the Department of Justice pursuant to subdivision (a). No regulations shall be required to implement this subdivision.

(d) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section and shall recover the full costs of administering the program by fees assessed applicants who apply for certificates. A licensed gun show producer shall be assessed an annual fee of eighty-five dollars (\$85) by the department.

(e)(1) A willful failure by a gun show producer to comply with any of the requirements of this section, except for the posting of required signs, shall be a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000), and shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.



(2) The willful failure of a gun show producer to post signs as required by this section shall be a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) for the first offense and not to exceed two thousand dollars (\$2,000) for the second or subsequent offense, and with respect to the second or subsequent offense, shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(3) Multiple violations charged pursuant to paragraph (1) arising from more than one gun show or event shall be grounds for suspension of a producer's certificate of eligibility pending adjudication of the violations.

(f) Prior to the commencement of a gun show or event, the producer thereof shall, upon written request, within 48 hours, or a later time specified by the requesting law enforcement agency, make available to the requesting law enforcement agency with jurisdiction over the facility, a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

The producer shall thereafter, upon written request, for every day the gun show or event operates, within 24 hours, or a later time specified by the requesting law enforcement agency, make available to the requesting law enforcement agency with jurisdiction over the facility, an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

This subdivision applies to persons, entities, and organizations whether or not they participate in the entire gun show or event, or only a portion thereof.

(g) The information that may be requested by the law enforcement agency with jurisdiction over the facility, and that shall be provided by the producer upon request, may include, but is not limited to, the following information relative to a vendor who offers for sale firearms manufactured after December 31, 1898: his or her complete name, and a driver's license or identification card number.

(h) The producer and facility manager shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following:

(1) The type of shows or events including, but not limited to, antique or general firearms.

(2) The estimated number of vendors offering firearms for sale or display.

(3) The estimated number of attendees.

(4) The number of entrances and exits at the gun show or event site.

(5) The location, dates, and times of the shows or events.

(6) The contact person and telephone number for both the producer and the facility.

(7) The number of sworn peace officers employed by the producer or the facilities manager who will be present at the show or event.

(8) The number of nonsworn security personnel employed by the producer or the facility's manager who will be present at the show or event.

(i) The annual event and security plan shall be submitted by either the producer or the facility's manager to the Department of Justice and the law enforcement agency with jurisdiction over the facility. Not later than 15 days prior to the commencement of the gun show or event, the producer shall submit to the department, the law enforcement agency with jurisdiction over the facility site, and the facility's manager a revised event and security plan if significant changes have been made since the annual plan was submitted, including a revised list of vendors that the producer knows, or reasonably should know, will be renting tables, space, or otherwise participating in the gun show or event. The event and security plan shall be approved by the facility's manager prior to the event or show after consultation with the law enforcement agency with jurisdiction over the facility. No gun show or event shall commence unless the requirements of this subdivision are met.

(j) The producer shall be responsible for informing prospective gun show vendors of the requirements of this section and of Section 12071.4 that apply to vendors.

(k) The producer shall, within seven calendar days of the commencement of the show or event, but not later than noon on Friday for a show or event held on a weekend, submit a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice for the purpose of determining whether these prospective vendors and designated firearms transfer agents possess valid licenses and are thus eligible to participate as licensed dealers at the show or event. The department shall examine its records and if it determines that a dealer's license is not valid, it shall notify the show or event producer of that fact prior to the commencement of the show or event.

(l) If a licensed firearms dealer fails to cooperate with a producer or fails to comply with the applicable requirements of this section or Section 12071.4, that person shall not be allowed to participate in that show or event.

(m) If a producer fails to comply with subdivision (j) or (k), the gun show or event shall not commence until those requirements are met.

(n) All producers shall have written contracts with all gun show vendors selling firearms at the show or event.

(o) The producer shall require that signs be posted in a readily visible location at each public entrance to the show containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms and weapons laws without exception.

(2) All firearms carried onto the premises by members of the public will be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker will be attached to the firearm prior to the person being allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms on this facility must have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in Section 830.

(p) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: "The transfer of firearms on the parking lot of this facility is a crime."

(q) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 12071 to the maximum extent practicable.

**12071.4.** (a) This section shall be known, and may be cited as, the Gun Show Enforcement and Security Act of 2000.

(b) All gun show or event vendors shall certify in writing to the producer that they:

(1) Will not display, possess, or offer for sale

any firearms, knives, or weapons for which possession or sale is prohibited.

(2) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms.

(3) Will not engage in activities that incite or encourage hate crimes.

(4) Will process all transfers of firearms through licensed firearms dealers as required by state law.

(5) Will verify that all firearms in their possession at the show or event will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of a firearm is being demonstrated to a prospective buyer.

(6) Have complied with the requirements of subdivision (e).

(7) Will not display or possess black powder, or offer it for sale.

(c) All firearms transfers at the gun show or event shall be in accordance with applicable state and federal laws.

(d) Except for purposes of showing ammunition to a prospective buyer, ammunition at a gun show or event may be displayed only in closed original factory boxes or other closed containers.

(e) Prior to the commencement of a gun show or event, each vendor shall provide to the producer all of the following information relative to the vendor, the vendor's employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor's display space if firearms manufactured after December 31, 1898, will be offered for sale:

(1) His or her complete name.

(2) His or her driver's license or state-issued identification card number.

(3) His or her date of birth.

The producer shall keep the information at the show's or event's onsite headquarters for the duration of the show or event, and at the producer's regular place of business for two weeks after the conclusion of the show or event, and shall make the information available upon request to any sworn peace officer for purposes of the officer's official law enforcement duties.

(f) Vendors and employees of vendors shall wear name tags indicating first and last name.

(g) No person at a gun show or event, other than security personnel or sworn peace officers, shall possess at the same time both a firearm and ammunition that is designed to be fired in the firearm. Vendors having

those items at the show for sale or exhibition are exempt from this prohibition.

(h) No member of the public who is under the age of 18 years shall be admitted to, or be permitted to remain at, a gun show or event unless accompanied by a parent or legal guardian. Any member of the public who is under the age of 18 shall be accompanied by his or her parent, grandparent, or legal guardian while at the show or event.

(i) Persons other than show or event security personnel, sworn peace officers, or vendors, who bring firearms onto the gun show or event premises shall sign in ink the tag or sticker that is attached to the firearm prior to being allowed admittance to the show or event, as provided for in subdivision (j).

(j) All firearms carried onto the premises of a gun show or event by members of the public shall be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker shall be attached to the firearm, prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all firearms transfers between private parties at the show or event shall be conducted through a licensed dealer in accordance with applicable state and federal laws. The person possessing the firearm shall complete the following information on the tag before it is attached to the firearm:

- (1) The gun owner's signature.
- (2) The gun owner's printed name.

(3) The identification number from the gun owner's government-issued photo identification.

(k) All persons possessing firearms at the gun show or event shall have in his or her immediate possession, government-issued photo identification, and display it upon request, to any security officer, or any peace officer.

(l) Unless otherwise specified, a first violation of this section is an infraction. Any second or subsequent violation is a misdemeanor. Any person who commits an act which he or she knows to be a violation of this section is guilty of a misdemeanor for a first offense.

**12072.** (a)(1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by

Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(B) Subparagraph (A) shall not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any person who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(7) The dealer shall comply with the provisions of paragraph (19) of subdivision (b) of Section 12071.

(8) No person shall sell or otherwise transfer his or her ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(A) The name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number assigned to that firearm.

(B) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 12092.

(9)(A) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(B) Subparagraph (A) shall not apply to any of

the following:

- (i) Any law enforcement agency.
  - (ii) Any agency duly authorized to perform law enforcement duties.
  - (iii) Any state or local correctional facility.
  - (iv) Any private security company licensed to do business in California.
  - (v) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of his or her employment as a peace officer.
  - (vi) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
  - (vii) Any person who may, pursuant to Section 12078, claim an exemption from the waiting period set forth in subdivision (c) of this section.
  - (viii) Any transaction conducted through a licensed firearms dealer pursuant to Section 12082.
  - (ix) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto and who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.
  - (x) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
  - (xi) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.
  - (xii) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.
- (b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

- (1) Answering a test applicant's questions

during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one's identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

(f)(1) ~~No~~ (A) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not deliver, sell, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless:

(A) Prior to January 1, 2005, the intended recipient does one of the following:

—— (i) Presents proof of licensure pursuant to Section 12071 to that person:

—— (ii) Presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d):

—— (B) Commencing January 1, 2005, one of the following is satisfied: unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the department. If Internet service is unavailable to either the department of the licensee due to a technical or other malfunction, or a federal firearms licensee who is located outside California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section. This

subdivision shall not apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled shotgun, as defined in Section 12020, or to a machinegun as defined in Section 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and 12276.5.

(B) For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a) of Section 12083, or the centralized list of firearms manufacturers pursuant to subdivision (f) of section 12086.

(C) If the department finds that the intended recipient is on one of these lists, the department shall issue to the inquiring party, a unique identification number for the intended delivery, sale, or transfer. In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm.

~~(i) The person intending to deliver, sell, or transfer the firearms obtains from the department, prior to delivery, a unique verification number pursuant to subdivision (i) of Section 12071. The person intending to deliver, sell, or transfer firearms~~ firearm shall provide the unique verification number to the recipient along with the firearms upon delivery, in a manner to be determined by the department.

~~(ii) The~~ (D) If the department finds that the intended recipient presents proof that he or she is is not on ~~exempt from licensure under Section 12071 to that person, in which case the person also shall present proof that the transaction is also exempt from the provisions of subdivision (d):~~ one of these lists, the department shall notify the inquiring party that the intended recipient is ineligible to receive the firearm.

(E) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(2)(A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).

(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

(iv) Sell or transfer the firearm to a sheriff or police department.

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

(C) The provisions of this paragraph are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

(D)(i) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this paragraph to ensure a high degree of publicity of the provisions of this paragraph.

(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

(II) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.

(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a

pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4)(A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g)(1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years:

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of

violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment:

(A) A violation of paragraph (2), (4), or (5), of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5)(A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars (\$50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

**12072.5.** (a) For purposes of this section, "ballistics identification systems" includes, but is not limited to, any automated image analysis system that is capable of storing firearm ballistic markings and tracing those markings to the firearm that produced them.

(b) The Attorney General shall conduct a study to evaluate ballistics identification systems to determine the feasibility and potential benefits to law enforcement of utilizing a statewide ballistics identification system capable of maintaining a data base of ballistic images and information from test fired and sold firearms. The study shall include an evaluation of ballistics identification systems currently used by state and federal law enforcement agencies and the firearms industry. The Attorney General shall consult with law enforcement agencies, firearms industry representatives, private technology providers, and other appropriate parties in conducting the study.

(c) In evaluating ballistics identification systems to determine the feasibility of utilizing a statewide system as required pursuant to subdivision (b), the Attorney General shall consider, at a minimum, the following:

(1) The development of methods by which firearm manufacturers, importers, and dealers may potentially capture ballistic images from firearms prior to sale in California and forward that information to the Attorney General.

(2) The development of methods by which the Attorney General will receive, store, and make available to law enforcement ballistic images submitted by firearm manufacturers, importers, and dealers prior to sale in California.

(3) The potential financial costs to the Attorney General of implementing and operating a statewide ballistics identification system, including the process for receipt of information from firearm manufacturers, importers, and dealers.

(4) The capability of a ballistics identification system maintaining a data base of ballistic images and information from test fired firearms for all firearms sold in California.

(5) The compatibility of a ballistics identification system with ballistics identification systems that are currently used by law enforcement agencies in California.

(6) A method to ensure that state and local law enforcement agencies can forward ballistic identification information to the Attorney General for inclusion in a statewide ballistics identification system.

(7) The feasibility and potential benefits to law enforcement of requiring firearm manufacturers, importers, and dealers to provide the Attorney General with ballistic images from any, or a selected number of, test fired firearms prior to the sale of those firearms in California.

(d) The Attorney General shall submit a report to the Legislature with the results of the study not later than June 1, 2001. In the event the report includes a determination that a ballistics identification system and data base is feasible and would benefit law enforcement, the report shall also recommend a strategy for implementation.

**12073.** (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to any of the following transactions:

(1) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer to another dealer upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(2) The delivery, sale, or transfer of an unloaded firearm by a dealer to another dealer if that firearm is intended as merchandise in the receiving dealer's business upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(3) The delivery, sale, or transfer of an unloaded firearm by a dealer to a person licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(4) The delivery, sale, or transfer of an unloaded firearm by a dealer who sells, transfers, or delivers the firearm to a person who resides outside this

state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(5) The delivery, sale, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler's business.

(6) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer to himself or herself.

(7) The loan of an unloaded firearm by a dealer who also operates a target facility which holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or club or organization, if the firearm is kept at all times within the premises of the target range or on the premises of the club or organization.

(8) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.

(9) The return of an unloaded firearm to the owner of that firearm by a dealer, if the owner initially delivered the firearm to the dealer for service or repair.

(10) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(c) A violation of this section is a misdemeanor.

**12074.** (a) The register shall be prepared by and obtained from the State Printer and shall be furnished by the State Printer only to dealers on application at a cost to be determined by the Department of General Services for each 100 leaves in quadruplicate, one original and three duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this article.

(b) Where the electronic transfer of applicant information is used, the Department of Justice shall develop the standards for all appropriate electronic equipment and telephone numbers to effect the transfer of information to the department.

**12075.** The State Printer upon issuing a register shall forward to the Department of Justice the name and



business address of the dealer together with the series and sheet numbers of the register. The register shall not be transferable. If the dealer moves his business to a different location he shall notify the department of such fact in writing within 48 hours.

**12076.** (a)(1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b)(1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor; provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Sections 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The original of the register shall be retained

by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is ~~one conducted~~ a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(c)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor; provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Sections 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the electronic or telephonic transfer shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state

prison for a term of 8, 12, or 18 months.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, and Explosives, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is ~~one conducted~~ a private party transfer conducted pursuant to Section 12082, a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(d)(1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited

from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the

California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is necessary to fund the following:

(1)(A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals,

sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f)(1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transactions that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer

pursuant to subdivision (e) for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Sections 12072, Sections 12083, and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i)(1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being

conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

**12076.5.** (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the Department of Justice without regard to fiscal years for the purpose of implementing and enforcing the provisions of Article 8 (commencing with Section 12800), as added by the Statutes of 2001, enforcing the provisions of this title, and for the establishment, maintenance and upgrading of equipment and services necessary for firearms dealers to comply with Section 12077.

(b) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

**12077.** (a) The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 12074.

(b)(1) For handguns, information contained in the register or record of electronic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of

purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, any information required to determine whether or not paragraph (6) of subdivision (c) of Section 12072 applies, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the handgun is delivered.

(c)(1) For firearms other than handguns, information contained in the register or record of electronic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth,

purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on

each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not handguns.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) Effective January 1, 2003, the purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means except as authorized by the department. This requirement shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic stripe reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(3) In the event that the dealer has reported to the department that the dealer's equipment has failed, information pursuant to this subdivision shall be obtained by an alternative method to be determined by the department.

(g) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

**12077.5.** (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the information required by subdivision (c) of Section 12077 to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars (\$20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively

approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department. Upon receipt of a notarized application and fee, the department shall do all of the following: (1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code. (2) Notify the applicant by mail of its determination of whether the applicant is a person described in Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(d) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(e) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Web site.

(f) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(g) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(h) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (c) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 12077.5 of the Penal Code. A violation of these provisions is a misdemeanor."

"If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required."

**12078.** (a)(1) The waiting periods described in Sections 12071 and 12072 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer shall keep the certification with the record of sale. On the date that the delivery, sale or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall

arrange with the sheriff of the county in which the agency is located to input this information via this system.

(3) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.

(4) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(5) Subdivision (b) of Section 12801 and the preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental

agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm prior to delivery is deactivated or rendered inoperable.

(C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

(D) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(E) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(F) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, the name of the government entity delivering the firearm, and the make, model, serial number, and other identifying characteristics of the firearm and the name of the person authorized by the entity to take possession of the firearm shall be reported to the department in a manner prescribed by the department.

(G) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm is deactivated or rendered inoperable prior to delivery.

(C) The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.

(D) Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(E) If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that public or private historical society, museum or institutional collection within 30 days of taking possession of that handgun, shall forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, that includes information identifying the person representing that public or private historical society, museum, or institutional collection, how title was obtained and from whom, and a description of the firearm in question, along with a copy of the written statement referred to in subparagraph (D). The report forms that are to be completed pursuant to this paragraph shall be provided by the Department of Justice.

(F) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

(b)(1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of a handgun to a person licensed pursuant to Section 12071, where the licensee is receiving the handgun in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(c)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a handgun by gift, bequest, intestate succession, or other means by one individual to another if both



individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a handgun by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) The person taking title to the firearm shall first obtain a handgun safety certificate.

(C) The person receiving the firearm is 18 years of age or older.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration and, when the firearm is a handgun, commencing January 1, 2003, the individual being loaned the handgun has a valid handgun safety certificate.

(2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a firearm where all of the following conditions exist:

(A) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.

(B) The loan is for a lawful purpose.

(C) The loan does not exceed three days in duration.

(D) The individual receiving the firearm is not prohibited from owning or possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by Section 8100 or 8103 of the Welfare and Institutions Code.

(E) The person loaning the firearm is 18 years of age or older.

(F) The person being loaned the firearm is 18

years of age or older.

(e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a handgun, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code. As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a handgun, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm

shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i)(1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the department.

(B) If the person taking title or possession is receiving the firearm pursuant to subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of the following:

(i) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be

provided to them by the department.

(ii) Prior to taking title or possession of the firearm, the person shall obtain a handgun safety certificate.

(C) Where the person receiving title or possession of the handgun is a person described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the handgun is a person described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun, to the person referred to in this subparagraph unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12021.3, 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not handguns by a dealer to another dealer upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a handgun by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a handgun or who moves out of this state with his or her handgun may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another

wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n)(1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a handgun by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071 by complying with paragraph (1) of subdivision (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c), (d), and paragraph (1) of (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p)(1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a), subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall not apply to the transfer or loan of a firearm that is not a handgun to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall not apply to the sale of a handgun if both of the following requirements are satisfied:

(A) The sale is to a person who is at least 18 years of age.

(B) The firearm is an antique firearm as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s)(1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the infrequent loan of an unloaded firearm by a person who is neither a dealer as defined in Section 12071 nor a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person 18 years of age or older, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a person who is not a dealer as defined in Section 12071 but who is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The person loaning the firearm pursuant to this paragraph shall retain a photocopy of the entertainment

firearms permit as proof of compliance with this requirement.

(3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm by a dealer as defined in Section 12071, to a person who possesses a valid entertainment firearms permit issued pursuant to Section 12081, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

(t)(1) The waiting period described in Sections 12071 or 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) *and paragraph (1) of subdivision (f) of* Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) "A person taking title or possession of firearms by operation of law" includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(J) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

**12079.** (a) Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Section 12071 and an out-of-state client, of large capacity magazines.

(b) For purposes of this section, "large capacity magazine" shall have the same meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

**12080.** (a) The Department of Justice shall prepare a pamphlet which summarizes California firearms laws as they pertain to persons other than law enforcement officers or members of the armed services.

(b) The pamphlet shall include the following matters:

- (1) Lawful possession.
- (2) Licensing procedures.
- (3) Transportation and use of firearms.
- (4) Acquisition of hunting licenses.
- (5) The safe handling and use of firearms.
- (6) Various methods of safe storage and child proofing of firearms.
- (7) The availability of firearms safety programs and devices.
- (8) The responsibilities of firearms ownership.
- (9) The operation of various types of firearms.
- (10) The lawful use of deadly force.

(c) The department shall offer copies of the pamphlet at actual cost to firearms dealers licensed pursuant to Section 12071 who shall have copies of the

most current version available for sale to retail purchasers or transferees of firearms. The cost of the pamphlet, if any, may be added to the sale price of the firearm. Other interested parties may purchase copies directly from the Department of General Services. The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel.

(d) The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication, or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

**12081.** (a) Any person who is at least 21 years of age may apply for an entertainment firearms permit from the Department of Justice that authorizes the permitholder to possess firearms loaned to him or her for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. Upon receipt of an initial or renewal application submitted as specified in subdivision (b), the department shall examine its records, records the department is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, and records of the National Instant Criminal Background Check System as described in subsection (t) of Section 922 of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or receiving firearms. The department shall issue an entertainment firearms permit only if the records indicate that the applicant is not prohibited from possessing or receiving firearms pursuant to any federal, state, or local law.

(b)(1) Requests for entertainment firearms permits shall be made on application forms prescribed by the Department of Justice that requires applicant information, including but not limited to the following:

- (A) Complete name.
- (B) Residential and mailing address.
- (C) Telephone number.
- (D) Date of birth.
- (E) Place of birth.
- (F) Country of citizenship and, if other than United States, alien number or admission number.

(G) Valid driver's license number or valid identification card number issued by the California

Department of Motor Vehicles.

(H) Social security number.

(I) Signature.

(2) All applications must be submitted with the appropriate fee as specified in subdivision (c).

(3) Initial applications for an entertainment firearms permit shall require the submission of fingerprint images and related information in a manner prescribed by the department, for the purpose of obtaining information as to the existence and nature of a record of state or federal level convictions and state or federal level arrests for which the department establishes that the individual was released on bail or on his or her own recognizance pending trial as needed to determine whether the applicant may be issued the permit. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded by the department to the Federal Bureau of Investigation.

(4) The Department of Justice shall review the criminal offender record information specified in subdivision (1) of Section 11105 for entertainment firearms permit applicants.

(5) The Department of Justice shall review subsequent arrests, pursuant to Section 11105.2, to determine the continuing validity of the permit as specified in subdivision (d) for all entertainment firearms permitholders.

(6) Any person who furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided on this application is guilty of a misdemeanor.

(c) The Department of Justice shall recover the full costs of administering the program by assessing the following application fees:

(1) For the initial application: one hundred four dollars (\$104). Of this sum, fifty-six dollars (\$56) shall be deposited into the Fingerprint Fee Account, and forty-eight dollars (\$48) shall be deposited into the Dealer Record of Sale Account.

(2) For each annual renewal application: twenty-nine dollars (\$29), which shall be deposited into the Dealer Record of Sale Account.

(d) The implementation of subdivisions (a), (b), and (c) by the department is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) The department shall annually review and shall adjust the fees specified in subdivision (c), if necessary, to fully fund, but not to exceed the actual

costs of, the permit program provided for by this section, including enforcement of the program.

(f) An entertainment firearms permit issued by the Department of Justice shall be valid for one year from the date of issuance. If at any time during that year the permitholder becomes prohibited from possessing or receiving firearms pursuant to any federal, state, or local law, his or her entertainment firearms permit shall be no longer valid.

**12082.** (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars (\$10) per firearm, and no other fee may be charged by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to this section, except for the applicable ~~the applicable fees that may be charged pursuant to Sections 12076, 12076.5, and 12088.9 and forwarded to fee that~~ the Department of Justice, and Justice may charge pursuant to Section 12076. ~~the fees set forth in Section 12805.~~ Nothing in these provisions shall prevent a dealer from charging a smaller fee. The ~~dealer may fee that the department may charge is the not charge any additional fees: fee that would be applicable pursuant to Section 12076, if the dealer was selling, transferring, or delivering a firearm to a~~

purchaser or transferee or a person being loaned a firearm, without any other parties being involved in the transaction.

(b) The Attorney General shall adopt regulations under this section to do all of the following:

(1) Allow the seller or transferor of the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.

(2) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, to allow a personal handgun importer's ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of his or her ownership can be maintained in the registry provided by subdivision (c) of Section 11106.

(3) Ensure that the register or record of electronic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal handgun importer in addition to any other information required by Section 12077.

(c) Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

(d) A violation of this section by a dealer is a misdemeanor.

~~**12083.** (a) A person who is licensed as a dealer, importer, manufacturer, or collector of firearms, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and whose licensed premises are within this state, shall, within 30 days of the date of issuance of the license, provide a copy of the license with an original signature of the licensee to the Department of Justice in a manner to be determined by the department. If the date of issuance of the license is prior to January 1, 2004, the person shall provide a copy~~

of the license with the original signature to the department no later than February 1, 2004.

\_\_\_\_ (b) A violation of this section is punishable as an infraction.

\_\_\_\_ (c) Any costs incurred by the department to implement this section and to implement the amendments made to Section 12071 by the act which enacted this section shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (g) of Section 12076, upon appropriation by the Legislature.

12083. (a) Commencing January 1, 2008, the Department of Justice shall keep a centralized list of persons who identify themselves as being licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer or manufacturer of firearms whose licensed premises are within this state and who declare to the department an exemption from the firearms dealer licensing requirements of Section 12070. The list shall be known as the centralized list of exempted federal firearms licensees. To qualify for placement on the centralized list, an applicant shall do all of the following: (1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms. (2) Maintain eligibility under California law to possess firearms by possessing a current, valid certificate of eligibility pursuant to Section 12071. (3) Maintain with the department a signed declaration enumerating the applicant's statutory exemptions from licensing requirements of Section 12070. Any person furnishing a fictitious name, knowingly furnishing any incorrect information, or knowingly omitting any information for the declaration shall be guilty of a misdemeanor. (b) Commencing January 1, 2008, the department shall assess an annual fee of one hundred fifteen dollars (\$115) to cover its costs of maintaining the centralized list of exempted federal firearms licensees prescribed by subdivision (a), conducting inspections in accordance with this section, and for the cost of maintaining the firearm shipment verification number system described in subdivision (f) of Section 12072. The department may increase the fee at a rate not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. The fees collected shall be deposited in the Dealers' Record of Sale Special Account. (c) (1) Any person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker,

importer, or manufacturer of firearms whose licensed premises are within this state shall not import or receive firearms from any source unless listed on the centralized list of firearms dealers pursuant to Section 12071, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a), or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086. (2) A violation of this subdivision is a misdemeanor. (d) (1) All persons on the centralized list of exempted federal firearms licensees prescribed by subdivision (a) shall record and keep on file for three years, the verification number that shall accompany firearms received from other federal firearms licensees pursuant to subdivision (f) of Section 12072. (2) A violation of this subdivision is cause for immediate removal from the centralized list. (e) Information compiled from the list described in subdivision (a) shall be made available for the following purposes: (1) Requests from local, state, and federal law enforcing agencies and the duly constituted city, county, and city and county licensing authorities. (2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments. (f) The department may conduct onsite inspections at the business premises of a person on the centralized list described in subdivision (a) to determine compliance with firearms laws pursuant to Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code. The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that licensees are not subject to duplicative inspections. During the inspection the following firearm records shall be made available for review: (1) Federal records referred to in subdivision (a) of Section 478.125 of Title 27 of the Code of Federal Regulations and the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations. (2) Verification numbers issued pursuant to subdivision (f) of Section 12072. (3) Any other records requested by the department to determine compliance with this article. (g) The department may remove from the centralized list described in subdivision (a), any person who violates this article. (h) The department may adopt regulations as necessary to carry out the provisions of this section, subdivision (f) of Section 12072, and Section 12071. The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that state regulations are not duplicative of



federal regulations.

**12085.** (a) Commencing July 1, 1999, no person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may manufacture firearms within this state unless licensed pursuant to Section 12086.

(b) Subdivision (a) does not apply to a person licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures fewer than 100 firearms in a calendar year within this state.

(c) If a person, firm, or corporation required to be licensed pursuant to Section 12086 ceases operations, then the records required pursuant to paragraphs (6) and (10) of subdivision (c) of Section 12086 shall be forwarded to the federal Bureau of Alcohol, Tobacco, and Firearms within three days of the closure of business.

(d) A violation of this section is a misdemeanor.

(e)(1) As used in this section and Section 12086, the term "firearm" includes the frame or receiver of the weapon.

(2) As used in this section and Section 12086, the term "firearm" includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.

(3) For purposes of this section and Section 12086, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

**12086.** (a)(1) As used in this section, "licensee," means a person, firm, or corporation that satisfies both of the following:

(A) Has a license issued pursuant to paragraph (2) of subdivision (b).

(B) Is among those recorded in the centralized list specified in subdivision (f).

(2) As used in this section, "department" means the Department of Justice.

(b)(1) The Department of Justice shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state. The department shall inform applicants who are denied licenses of the reasons for the denial in writing.

(2) No license shall be granted by the department unless and until the applicant presents proof that he or she has all of the following:

(A) A valid license to manufacture firearms issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit or resale certificate issued by the State Board of Equalization, if applicable.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071.

(3) The department shall adopt regulations to administer this section and Section 12085 and shall recover the full costs of administering the program by collecting fees from license applicants. Recoverable costs shall include, but not be limited to, the costs of inspections and maintaining a centralized list of licensed firearm manufacturers. The fee for licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state shall not exceed two hundred fifty dollars (\$250) per year or the actual costs of inspections and maintaining a centralized list of firearm manufacturers and any other duties of the department required pursuant to this section and Section 12085, whichever is less.

(4) A license granted by the department shall be valid for no more than one year from the date of issuance and shall be in the form prescribed by the Attorney General.

(c) A licensee shall comply with the following prohibitions and requirements:

(1) The business shall be conducted only in the buildings designated in the license.

(2) The license or a copy thereof, certified by the department, shall be displayed on the premises where it can easily be seen.

(3) Whenever a licensee discovers that a firearm has been stolen or is missing from the licensee's premises, the licensee shall report the loss or theft within 48 hours of the discovery to all of the following:

(A) The Department of Justice, in a manner prescribed by the department.

(B) The federal Bureau of Alcohol, Tobacco, and Firearms.

(C) The police department in the city or city and county where the building designated in the license is located.

(D) If there is no police department in the city or city and county where the building designated in the license is located, the sheriff of the county where the building designated in the license is located.

(4)(A) The licensee shall require that each employee obtain a certificate of eligibility pursuant to

paragraph (4) of subdivision (a) of Section 12071, which shall be renewed annually, prior to being allowed to come into contact with any firearm.

(B) The licensee shall prohibit any employee who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm.

(5)(A) Each firearm the licensee manufactures in this state shall be identified with a unique serial number stamped onto the firearm utilizing the method of compression stamping.

(B) Licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state may serialize long guns only by utilizing a method of compression stamping or by engraving the serial number onto the firearm.

(C) The licensee shall stamp the serial number onto the firearm within one business day of the time the receiver or frame is manufactured.

(D) The licensee shall not use the same serial number for more than one firearm.

(6)(A) The licensee shall record the type, model, caliber, or gauge, and serial number of each firearm manufactured or acquired, and the date of the manufacture or acquisition, within one business day of the manufacture or acquisition.

(B) The licensee shall maintain permanently within the building designated in the license the records required pursuant to subparagraph (A).

(C) Backup copies of the records described in subparagraph (A), whether electronic or hard copy, shall be made at least once a month.

These backup records shall be maintained in a facility separate from the one in which the primary records are stored.

(7)(A) The licensee shall allow the department to inspect the building designated in the license to ensure compliance with the requirements of this section.

(B) The licensee shall allow any peace officer, authorized law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, to inspect facilities and records during business hours to ensure compliance with the requirements of this section.

(8) The licensee shall store in a secure facility all firearms manufactured and all barrels for firearms manufactured.

(9)(A) The licensee shall notify the chief of police or other head of the municipal police department in the city or city and county where the building designated in the license is located that the licensee is manufacturing firearms within that city or city and county and the location of the licensed premises.

(B) If there is no police department in the city or city and county where the building designated in the license is located, the licensee shall notify the sheriff of the county where the building designated in the license is located that the licensee is manufacturing firearms within that county and the location of the licensed premises.

(10) For at least 10 years, the licensee shall maintain records of all firearms that are lost or stolen, as prescribed by the department.

(d) Except as otherwise provided in subdivision (e), as used in this section, a "secure facility" means that the facility satisfies all of the following:

(1) The facility is equipped with a burglar alarm with central monitoring.

(2) All perimeter entries to areas in which firearms are stored other than doors, including windows and skylights, are secured with steel window guards or an audible, silent, or sonic alarm to detect entry.

(3) All perimeter doorways are designed in one of the following ways:

(A) A windowless steel security door equipped with both a deadbolt and a doorknob lock.

(B) A windowed metal door equipped with both a deadbolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window is covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(C) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(D) Hinges and hasps attached to doors by welding, riveting, or bolting with nuts on the inside of the door.

(E) Hinges and hasps installed so that they cannot be removed when the doors are closed and locked.

(4) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(5) No perimeter metal grates are capable of being entered by any person.

(6) Steel bars used to satisfy the requirements of this subdivision are not capable of being entered by any person.

(7) Perimeter walls of rooms in which firearms are stored are constructed of concrete or at least 10-gauge expanded steel wire mesh utilized along with typical wood frame and drywall construction. If firearms are not stored in a vault, the facility shall use an exterior security-type door along with a high security, single-key deadbolt, or other door that is more secure. All firearms shall be stored in a separate room away from any general living area or work area. Any door to the storage facility shall be locked while unattended.

(8) Perimeter doorways, including the loading dock area, are locked at all times when not attended by paid employees or contracted employees, including security guards.

(9) Except when a firearm is currently being tested, any ammunition on the premises is removed from all manufactured guns and stored in a separate and locked room, cabinet, or box away from the storage area for the firearms. Ammunition may be stored with a weapon only in a locked safe.

(e) For purposes of this section, any licensed manufacturer who produces fewer than 500 firearms in a calendar year within this state may maintain a "secure facility" by complying with all of the requirements described in subdivision (d), or may design a security plan that is approved by the Department of Justice or the federal Bureau of Alcohol, Tobacco, and Firearms.

(1) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and Firearms, the approved plan, along with proof of approval, shall be filed with the Department of Justice and the local police department. If there is no police department, the filing shall be with the county sheriff's office.

(2) If a security plan is approved by the Department of Justice, the approved plan, along with proof of approval, shall be filed with the local police department. If there is no police department, the filing shall be with the county sheriff's office.

(f)(1) Except as otherwise provided in this subdivision, the Department of Justice shall maintain a centralized list of all persons licensed pursuant to paragraph (2) of subdivision (b). The centralized list shall be provided annually to each police department and county sheriff within the state.

(2) Except as provided in paragraph (3), the license of any licensee who violates this section may be revoked.

(3) The license of any licensee who knowingly or with gross negligence violates this section or violates this section three times shall be revoked, and that person, firm, or corporation shall become permanently

ineligible to obtain a license pursuant to this section.

(g)(1) Upon the revocation of the license, notification shall be provided to local law enforcement authorities in the jurisdiction where the licensee's business is located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) The department shall make information concerning the location and name of a licensee available, upon request, for the following purposes only:

(A) Law enforcement.

(B) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) Notwithstanding paragraph (2), the department shall make the name and business address of a licensee available to any person upon written request.

(h) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to paragraph (3) of subdivision (b), the number of licensees removed from the centralized list described in subdivision (f), and the number of licensees found to have violated this section.

#### **ARTICLE 4.5. FIREARMS SAFETY DEVICES**

**12087.** This article shall be known and may be cited as the "Aroner-Scott-Hayden Firearms Safety Act of 1999."

**12087.5.** The Legislature makes the following findings:

(a) In the years 1987 to 1996, nearly 2,200 children in the United States under the age of 15 years died in unintentional shootings. In 1996 alone, 138 children were shot and killed unintentionally. Thus, more than 11 children every month, or one child every three days, were shot or killed unintentionally in firearms-related incidents.

(b) The United States leads the industrialized world in the rates of children and youth lost to unintentional, firearms-related deaths.

A 1997 study from the federal Centers for Disease Control and Prevention reveals that for unintentional firearm-related deaths for children under the age of 15, the rate in the United States was nine times higher than in 25 other industrialized countries combined.

(c) While the number of unintentional deaths

from firearms is an unacceptable toll on America's children, nearly eight times that number are treated in U.S. hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

(d) A study of unintentional firearm deaths among children in California found that unintentional gunshot wounds most often involve handguns.

(e) A study in the December 1995 issue of the Archives of Pediatric and Adolescent Medicine found that children as young as three years old are strong enough to fire most commercially available handguns. The study revealed that 25 percent of three to four year olds and 70 percent of five to six year olds had sufficient finger strength to fire 59 (92 percent) of the 64 commonly available handguns referenced in the study.

(f) The Government Accounting Office (GAO), in its March 1991 study, "Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be Prevented," estimates that 31 percent of accidental deaths caused by firearms might be prevented by the addition of two safety devices: a child-resistant safety device that automatically engages and a device that indicates whether the gun is loaded. According to the study results, of the 107 unintentional firearms-related fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could have been prevented had the firearm been equipped with a child-resistant safety device. This 8 percent represents instances in which children under the age of six unintentionally shot and killed themselves or other persons.

(g) Currently, firearms are the only products manufactured in the United States that are not subject to minimum safety standards.

(h) A 1997 public opinion poll conducted by the National Opinion Research Center at the University of Chicago in conjunction with the Johns Hopkins Center for Gun Policy and Research found that 74 percent of Americans support safety regulation of the firearms industry.

(i) Some currently available trigger locks and other similar devices are inadequate to prevent the accidental discharge of the firearms to which they are attached, or to prevent children from gaining access to the firearm.

**12087.6.** As used in this article:

(a) "Firearms safety device" means a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent

access to the firearm.

(b) "Gun safe" means a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to Section 12088.2.

(c) "Long-gun safe" means a locking container designed to fully contain and secure a rifle as defined in paragraph (20) of subdivision (c) of Section 12020 or a shotgun as defined in paragraph (21) of subdivision (c) of Section 12020, that has a locking system consisting of either a mechanical combination lock or an electronic combination lock that has at least 1,000 possible unique combinations consisting of a minimum of three numbers, letters, or symbols per combination, and that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088.

**12088.** (a) The Department of Justice shall certify laboratories to verify compliance with standards for firearms safety devices set forth in Section 12088.2.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearms safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 12088.2.

(c) The certified laboratory shall, at the manufacturer's or dealer's expense, test the firearms safety device and submit a copy of the final test report directly to the Department of Justice along with the firearms safety device. The department shall notify the manufacturer or dealer of its receipt of the final test report and the department's determination as to whether the firearms safety device tested may be sold in this state.

(d) On and after July 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the firearms safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearms safety devices and may be sold in this state.

(e) The roster shall list, for each firearms safety device, the manufacturer, model number, and model name.

(f) The department may randomly retest samples obtained from sources other than directly from the manufacturer of the firearms safety device listed on the roster to ensure compliance with the requirements of this article.

(g) Firearms safety devices used for random sample testing and obtained from sources other than the manufacturer shall be in new, unused condition, and still

in the manufacturer's original and unopened package.

**12088.1.** (a) All firearms sold or transferred in this state by a licensed firearms dealer, including private transfers through a dealer, and all firearms manufactured in this state, shall include or be accompanied by a firearms safety device that is listed on the Department of Justice's roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) All firearms sold or transferred in this state by a licensed firearms dealer, including private transfers through a dealer, and all firearms manufactured in this state shall be accompanied with warning language or labels as described in Section 12088.3.

(c)(1) All long-gun safes commercially sold or transferred in this state, or manufactured in this state for sale in this state, that do not meet the standards for gun safes adopted pursuant to Section 12088.2 shall be accompanied by the following warning:

“WARNING: This gun safe does not meet the safety standards for gun safes specified in California Penal Code Section 12088.2. It does not satisfy the requirements of Penal Code Section 12088.1, which mandates that all firearms sold in California be accompanied by a firearms safety device or proof of ownership, as required by law, of a gun safe that meets the Section 12088.2 minimum safety standards developed by the California Attorney General.”

(2) This warning shall be conspicuously displayed in its entirety on the principal display panel of the gun safe's package, on any descriptive materials that accompany the gun safe, and on a label affixed to the front of the gun safe.

(3) This warning shall be displayed in both English and Spanish in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package or descriptive materials in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

(d) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 12088.2.

Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealers' record of sales of firearms.

(e) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:

(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealers' record of sales of firearms.

**12088.15.** (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearms safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088, or that does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088 or does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(c) No long-gun safe may be manufactured in this state for sale in this state that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, unless the long-gun safe is labeled by the manufacturer consistent with the requirements of Section 12088.1.

(d)(1) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who

commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, and who knows or has reason to know, that the long-gun safe in question does not meet the standards for gun safes adopted pursuant to Section 12088.2, is in violation of this section, and is punishable as provided in subdivision (e), unless the long-gun safe is labeled pursuant to Section 12088.1.

(2) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, and who removes or causes to be removed from the long-gun safe, the label required pursuant to Section 12088.1, is in violation of this section, and is punishable as provided in subdivision (e).

(e) A violation of this section is punishable by a civil fine of up to five hundred dollars (\$500). A second violation of this section that occurs within five years of the date of a previous offense is punishable by a civil fine of up to one thousand dollars (\$1,000) and, if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in this state for 30 days. A third or subsequent violation that occurs within five years of two or more previous offenses is punishable by a civil fine of up to five thousand dollars (\$5,000) and, if the violation is committed by a licensed firearms dealer, the firearms dealer shall be permanently ineligible to sell firearms in this state.

(f) The Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of the provisions of this section.

**12088.2.** (a) No later than January 1, 2000, the Attorney General shall commence development of regulations to implement a minimum safety standard for firearms safety devices and gun safes to significantly reduce the risk of firearms-related injuries to children 17 years of age and younger. The final standard shall do all of the following:

(1) Address the risk of injury from unintentional gunshot wounds.

(2) Address the risk of injury from self-inflicted gunshot wounds by unauthorized users.

(3) Include provisions to ensure that all firearms safety devices and gun safes are reusable and of adequate quality and construction to prevent children and unauthorized users from firing the firearm and to ensure that these devices cannot be readily removed from the firearm or that the firearm cannot be readily

removed from the gun safe except by an authorized user utilizing the key, combination, or other method of access intended by the manufacturer of the device.

(4) Include additional provisions as appropriate.

(b) The Attorney General may consult, for the purposes of guidance in development of the standards, test protocols such as those described in Title 16 (commencing with Part 1700) of the Code of Federal Regulations, relating to poison prevention packaging standards. These protocols may be consulted to provide suggestions for potential methods to utilize in developing standards and shall serve as guidance only. The Attorney General shall also give appropriate consideration to the use of devices that are not detachable, but are permanently installed and incorporated into the design of a firearm. The Attorney General shall adopt and issue regulations implementing a final standard not later than January 1, 2001. The Attorney General shall report to the Legislature on these standards by January 1, 2001. The final standard shall be effective January 1, 2002.

**12088.3.** (a) The packaging of any firearm and any descriptive materials that accompany any firearm sold or transferred in this state, or delivered for sale in this state, by any licensed manufacturer, or licensed dealer, shall bear a label containing the following warning statement:

#### WARNING

Children are attracted to and can operate firearms that can cause severe injuries or death.

Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison.

A yellow triangle containing an exclamation mark shall appear immediately before the word "Warning" on the label.

(b) If the firearm is sold or transferred without accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General.

(c) The warning statement required under subdivisions (a) and (b) shall be:

(1) Displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm.

(2) Displayed in both English and Spanish in conspicuous and legible type in contrast by typography,

layout, or color with other printed matter on that package or descriptive materials in a manner consistent with Part 1500.121 of Title 16, of the Code of Federal Regulations, or successor regulations thereto.

**12088.4.** If at any time the Attorney General determines that a gun safe or firearms safety device subject to the provisions of this article and sold after January 1, 2002, does not conform with the standards required by subdivision (a) of Section 12088.1 or Section 12088.2, the Attorney General may order the recall and replacement of the gun safe or firearms safety device, or order that the gun safe or firearm safety device be brought into conformity with those requirements. If the firearms safety device cannot be separated from the firearm without damaging the firearm, the Attorney General may order the recall and replacement of the firearm. If the firearms safety device can be separated and reattached to the firearm without damaging the firearm, the licensed manufacturer or licensed firearms dealer shall immediately provide a conforming replacement as instructed by the Attorney General.

**12088.5.** Each lead law enforcement agency investigating an incident shall report to the State Department of Health Services any information obtained that reasonably supports the conclusion that:

(a) A child 18 years of age or younger suffered an unintentional or self-inflicted gunshot wound inflicted by a firearm that was sold or transferred in this state, or manufactured in this state.

(b) Whether as a result of that incident the child died, suffered serious injury, or was treated for an injury by a medical professional.

**12088.6.** Any violation of Section 12088.1 or Section 12088.3 is punishable by a fine of one thousand dollars (\$1,000). On the second violation of any of those sections, the licensed firearm manufacturer shall be ineligible to manufacture, or the licensed firearm dealer shall be ineligible to sell, firearms in this state for 30 days, and shall be punished by a fine of one thousand dollars (\$1,000). On the third violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in this state. On the third violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in this state.

**12088.7.** Compliance with the requirements set forth in this article shall not relieve any person from

liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.

**12088.8.** (a) This article does not apply to the commerce of any firearm defined as an "antique firearm" in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

(b) This article shall not apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 for purposes of law enforcement. Nothing in this article shall preclude local governments, local agencies, or state law enforcement agencies from requiring their peace officers to store their firearms in gun safes or attach firearms safety devices to those firearms.

**12088.9.** (a) The Department of Justice may require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm transaction. The fee shall be for the purpose of supporting department program costs related to this act, including the establishment, maintenance, and upgrading of related data base systems and public rosters.

(b) There is hereby created within the General Fund the Firearm Safety Account. Revenue from the fee imposed by subdivision (a) shall be deposited into the Firearm Safety Account and shall be available for expenditure by the Department of Justice upon appropriation by the Legislature. Expenditures from the Firearm Safety Account shall be limited to program expenditures as defined by subdivision (a).

## **ARTICLE 5. OBLITERATION OF IDENTIFICATION MARKS**

**12090.** Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make such change, alteration or removal shall be punished by imprisonment in the state prison.

**12091.** Possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, shall

be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

**12092.** The Department of Justice upon request may assign a distinguishing number or mark of identification to any firearm whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

**12093.** Any person may place or stamp on any pistol, revolver, or other firearm any number or identifying indicium, provided the number or identifying indicium does not change, alter, remove, or obliterate the manufacturer's name, number, model, or other mark of identification. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when such restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new firearm.

**12094.** (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

(b) Subdivision (a) does not apply to any of the following:

(1) The acquisition or possession of a firearm described in subdivision (a) by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of his or her employment.

(2) The acquisition or possession of a firearm described in subdivision (a) by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of his or her employment.

(3) The acquisition or possession of a firearm described in subdivision (a) by any employee of a forensic laboratory, while on duty and acting within the

scope and course of his or her employment.

(4) The possession and disposition of a firearm described in subdivision (a) by a person who meets, all of the following:

(A) He or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency in order to deliver the firearm to the law enforcement agency for the agency's disposition according to law.

(D) If the person is transporting the firearm to a law enforcement agency, he or she has given prior notice to the law enforcement agency that he or she is transporting the firearm to that law enforcement agency for that agency's disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

## ARTICLE 6. PERMITS

**12095.** (a) If it finds that it does not endanger the public safety, the Department of Justice may issue permits initially valid for a period of one year, and renewable annually thereafter, for the manufacture, possession, transportation, or sale of short-barreled shotguns or short-barreled rifles upon a showing that good cause exists for the issuance thereof to the applicant for the permit. No permit shall be issued to a person who is under 18 years of age.

(b) Good cause, for the purposes of this section, shall be limited to only the following:

(1) The permit is sought for the manufacture, possession, or use with blank cartridges, of a short-barreled rifle or short-barreled shotgun, solely as props for a motion picture, television, or video production or entertainment event.

(2) The permit is sought for the manufacture of, exposing for sale, keeping for sale, sale of, importation or lending of short-barreled rifles or short-barreled shotguns to the entities listed in paragraph (1) of subdivision (b) of Section 12020 by persons who are licensed as dealers or manufacturers under the



provisions of Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

**12096.** Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address, and a full description of the use to which the short-barreled shotguns or short-barreled rifles are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

**12097.** (a) Every person, firm or corporation to whom a permit is issued shall keep it on his or her person or at the place where the short-barreled shotguns or short-barreled rifles are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

(b) Every short-barreled shotgun or short-barreled rifle possessed pursuant to the provisions of this article shall bear a unique identifying number. If a weapon does not bear a unique identifying number, the Department of Justice shall assign a number which shall be placed or stamped on that weapon.

**12098.** Permits issued in accordance with this article may be revoked by the issuing authority at any time when it appears that the need for the short-barreled shotguns or short-barreled rifles has ceased or that the holder of the permit has used the short-barreled shotguns or short-barreled rifles for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

**12099.** (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of short-barreled shotguns and short-barreled rifles.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

## **ARTICLE 7. JUVENILES**

**12101.** (a)(1) A minor shall not possess a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor is accompanied by his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(B) The minor is accompanied by a responsible adult, the minor has the prior written consent of his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The minor is at least 16 years of age, the minor has the prior written consent of his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The minor has the prior written consent of his or her parent or legal guardian, the minor is on lands owned or lawfully possessed by his or her parent or legal guardian, and the minor is actively engaged in, or

is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(b)(1) A minor shall not possess live ammunition.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor has the written consent of his or her parent or legal guardian to possess live ammunition.

(B) The minor is accompanied by his or her parent or legal guardian.

(C) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

(c) Every minor who violates this section shall be punished as follows:

(1) By imprisonment in the state prison or in a county jail if one of the following applies:

(A) The minor has been found guilty previously of violating this section.

(B) The minor has been found guilty previously of an offense specified in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) The minor has been found guilty of a violation of paragraph (1) of subdivision (a).

(2) Violations of this section other than those violations specified in paragraph (1) shall be punishable as a misdemeanor.

(d) In a proceeding to enforce this section brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code, the court may require the custodial parent or legal guardian of a minor who violates this section to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

(e) As used in this section, "responsible adult" means a person at least 21 years of age who is not within a class of persons prohibited from owning or possessing firearms by virtue of Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(f) It is not the intent of the Legislature in enacting the amendments to this section or to Section 12078 to expand or narrow the application of current statutory or judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm

for the purpose of self-defense or the defense of others.

### **CHAPTER 1.3. UNSAFE HANDGUNS**

**12125.** (a) Commencing January 1, 2001, any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.

(b) This section shall not apply to any of the following:

(1) The manufacture in this state, or importation into this state, of any prototype pistol, revolver, or other firearm capable of being concealed upon the person when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice pursuant to Section 12130 to conduct an independent test to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person is prohibited by this chapter, and, if not, allowing the department to add the firearm to the roster of pistols, revolvers, and other firearms capable of being concealed upon the person that may be sold in this state pursuant to Section 12131.

(2) The importation or lending of a pistol, revolver, or other firearm capable of being concealed upon the person by employees or authorized agents of entities determining whether the weapon is prohibited by this section.

(3) Firearms listed as curios or relics, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(4) The sale or purchase of any pistol, revolver or other firearm capable of being concealed upon the person, if the pistol, revolver, or other firearm is sold to, or purchased by, the Department of Justice, any police department, any sheriff's official, any marshal's office, the Youth and Adult Correctional Agency, the California Highway Patrol, any district attorney's office, or the military or naval forces of this state or of the United States for use in the discharge of their official duties. Nor shall anything in this section prohibit the sale to, or purchase by, sworn members of these agencies of any pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Violations of subdivision (a) are cumulative with respect to each handgun and shall not be construed as restricting the application of any other law.

However, an act or omission punishable in different ways by this section and other provisions of law shall

not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654.

**12126.** As used in this chapter, "unsafe handgun" means any pistol, revolver, or other firearm capable of being concealed upon the person, as defined in subdivision (a) of Section 12001, for which any of the following is true:

(a) For a revolver:

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns pursuant to Section 12127.

(3) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

(b) For a pistol:

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) It does not meet the firing requirement for handguns pursuant to Section 12127.

(3) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

(4) Commencing January 1, 2006, for a center-fire semiautomatic pistol that is not already listed on the roster pursuant to Section 12131, it does not have either a chamber load indicator, or a magazine disconnect mechanism.

(5) Commencing January 1, 2007, for all center-fire semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it does not have both a chamber load indicator and if it has a detachable magazine, a magazine disconnect mechanism.

(6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it does not have a magazine disconnect mechanism, if it has a detachable magazine.

(c) As used in this section, a "chamber load indicator" means a device that plainly indicates that a cartridge is in the firing chamber. A device satisfies this definition if it is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable adult user of the pistol, without requiring

the user to refer to a user's manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber.

(d) As used in this section, a "magazine disconnect mechanism" means a mechanism that prevents a semiautomatic pistol that has a detachable magazine from operating to strike the primer of ammunition in the firing chamber when a detachable magazine is not inserted in the semiautomatic pistol.

(e) As used in this section, a "semiautomatic pistol" means a pistol, as defined in subdivision (a) of Section 12001, the operating mode of which uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.

**12127.** (a) As used in this chapter, the "firing requirement for handguns" means a test in which the manufacturer provides three handguns of the make and model for which certification is sought, to an independent testing laboratory certified by the Attorney General pursuant to Section 12130. These handguns may not be refined or modified in any way from those that would be made available for retail sale if certification is granted. The magazines of a tested pistol shall be identical to those that would be provided with the pistol to a retail customer. The laboratory shall fire 600 rounds from each gun, stopping after each series of 50 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping after each series of 100 rounds has been fired to tighten any loose screws and clean the gun in accordance with the manufacturer's instructions, and stopping as needed to refill the empty magazine or cylinder to capacity before continuing. The ammunition used shall be of the type recommended by the handgun manufacturer in the user manual, or if none is recommended, any standard ammunition of the correct caliber in new condition that is commercially available. A handgun shall pass this test if each of the three test guns meets both of the following:

(1) Fires the first 20 rounds without a malfunction that is not due to ammunition that fails to detonate.

(2) Fires the full 600 rounds with no more than six malfunctions that are not due to ammunition that fails to detonate and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user.

(b) If a pistol or revolver fails the requirements of either paragraph (1) or (2) of subdivision (a) due to ammunition that fails to detonate, the pistol or revolver shall be retested from the beginning of the "firing

requirement for handguns" test. A new model of the pistol or revolver that failed due to ammunition that fails to detonate may be submitted for the test to replace the pistol or revolver that failed.

(c) As used in this section, "malfunction" means a failure to properly feed, fire, or eject a round, or failure of a pistol to accept or eject the magazine, or failure of a pistol's slide to remain open after the magazine has been expended.

**12128.** As used in this chapter, the "drop safety requirement for handguns" means that at the conclusion of the firing requirements for handguns described in Section 12127, the same certified independent testing laboratory shall subject the same three handguns of the make and model for which certification is sought, to the following test:

A primed case (no powder or projectile) shall be inserted into the chamber. For pistols, the slide shall be released, allowing it to move forward under the impetus of the recoil spring, and an empty magazine shall be inserted. For both pistols and revolvers, the weapon shall be placed in a drop fixture capable of dropping the pistol from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the largest side of a slab of solid concrete having minimum dimensions of 7.5 X 15 X 15 cm (3 X 6 X 6 in.). The drop distance shall be measured from the lowermost portion of the weapon to the top surface of the slab. The weapon shall be dropped from a fixture and not from the hand. The weapon shall be dropped in the condition that it would be in if it were dropped from a hand (cocked with no manual safety applied). If the design of a pistol is such that upon leaving the hand a "safety" is automatically applied by the pistol, this feature shall not be defeated. An approved drop fixture is a short piece of string with the weapon attached at one end and the other end held in an air vise until the drop is initiated.

The following six drops shall be performed:

- (a) Normal firing position with barrel horizontal.
- (b) Upside down with barrel horizontal.
- (c) On grip with barrel vertical.
- (d) On muzzle with barrel vertical.
- (e) On either side with barrel horizontal.
- (f) If there is an exposed hammer or striker, on the rearmost point of that device, otherwise on the rearmost point of the weapon.

The primer shall be examined for indentations after each drop. If indentations are present, a fresh primed case shall be used for the next drop.

The handgun shall pass this test if each of the

three test guns does not fire the primer.

**12129.** Every person who is licensed as a manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures firearms in this state, and every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm, shall certify under penalty of perjury and any other remedy provided by law that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for sale is not an unsafe handgun as prohibited by this chapter.

**12130.** (a) Any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, shall be tested within a reasonable period of time by an independent laboratory certified pursuant to subdivision (b) to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds the standards defined in Section 12126.

(b) On or before October 1, 2000, the Department of Justice shall certify laboratories to verify compliance with the standards defined in Section 12126. The department may charge any laboratory that is seeking certification to test any pistol, revolver, or other firearm capable of being concealed upon the person pursuant to this chapter a fee not exceeding the costs of certification.

(c) The certified testing laboratory shall, at the manufacturer's or importer's expense, test the firearm and submit a copy of the final test report directly to the Department of Justice along with a prototype of the weapon to be retained by the department. The department shall notify the manufacturer or importer of its receipt of the final test report and the department's determination as to whether the firearm tested may be sold in this state.

(d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be submitted for testing pursuant to this chapter if it does not have either a chamber load indicator as defined in subdivision (c) of Section 12126, or a magazine disconnect mechanism as defined in subdivision (d) of Section 12126 if it has a detachable magazine.

(2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be submitted for testing pursuant to this chapter if it does not have both a

chamber load indicator as defined in subdivision (c) of Section 12126 and a magazine disconnect mechanism as defined in subdivision (d) of Section 12126.

(3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be submitted for testing pursuant to this chapter if it has a detachable magazine, and does not have a magazine disconnect mechanism as defined in subdivision (d) of Section 12126.

**12131.** (a) On and after January 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in this state pursuant to this title. The roster shall list, for each firearm, the manufacturer, model number, and model name.

(b)(1) The department may charge every person in this state who is licensed as a manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster pursuant to subdivision (a) and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs necessary to implement this chapter.

(2) Any pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured by a manufacturer who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, and who fails to pay any fee required pursuant to paragraph (1), may be excluded from the roster.

(3) If a purchaser has initiated a transfer of a handgun that is listed on the roster as not unsafe, and prior to the completion of the transfer, the handgun is removed from the roster of not unsafe handguns because of failure to pay the fee required to keep that handgun listed on the roster, the handgun shall be deliverable to the purchaser if the purchaser is not otherwise prohibited from purchasing or possessing the handgun. However, if a purchaser has initiated a

transfer of a handgun that is listed on the roster as not unsafe, and prior to completion of the transfer, the handgun is removed from the roster pursuant to subdivision (f), the handgun shall not be deliverable to the purchaser.

(c) The Attorney General may annually retest up to 5 percent of the handgun models that are listed on the roster described in subdivision (a).

(d) The retesting of a handgun model pursuant to subdivision (c) shall conform to the following:

(1) The Attorney General shall obtain from retail or wholesale sources, or both, three samples of the handgun model to be retested.

(2) The Attorney General shall select the certified laboratory to be used for the retesting.

(3) The ammunition used for the retesting shall be of a type recommended by the manufacturer in the user manual for the handgun. If the user manual for the handgun model makes no ammunition recommendation, the Attorney General shall select the ammunition to be used for the retesting. The ammunition shall be of the proper caliber for the handgun, commercially available, and in new condition.

(e) The retest shall be conducted in the same manner as the testing prescribed in Sections 12127 and 12128.

(f) If the handgun model fails retesting, the Attorney General shall remove the handgun model from the roster maintained pursuant to subdivision (a).

(g) A handgun model removed from the roster pursuant to subdivision (f) may be reinstated on the roster if all of the following are met:

(1) The manufacturer petitions the Attorney General for reinstatement of the handgun model.

(2) The manufacturer pays the Department of Justice for all of the costs related to the reinstatement testing of the handgun model, including the purchase price of the handguns, prior to reinstatement testing.

(3) The reinstatement testing of the handguns shall be in accordance with subdivisions (d) and (e).

(4) The three handgun samples shall be tested only once for reinstatement. If the sample fails it may not be retested.

(5) If the handgun model successfully passes testing for reinstatement, and if the manufacturer of the handgun is otherwise in compliance with this chapter, the Attorney General shall reinstate the handgun model on the roster maintained pursuant to subdivision (a).

(6) The manufacturer shall provide the Attorney General with the complete testing history for the handgun model.

(7) Notwithstanding subdivision (c), the

Attorney General may, at any time, further retest any handgun model that has been reinstated to the roster.

**12131.5.** (a) A firearm shall be deemed to satisfy the requirements of subdivision (a) of Section 12131 if another firearm made by the same manufacturer is already listed and the unlisted firearm differs from the listed firearm only in one or more of the following features:

(1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.

(2) The material from which the grips are made.

(3) The shape or texture of the grips, so long as the difference in grip shape or texture does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm.

(4) Any other purely cosmetic feature that does not in any way alter the dimensions, material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of the components of the firing mechanism of the firearm.

(b) Any manufacturer seeking to have a firearm listed under this section shall provide to the Department of Justice all of the following:

(1) The model designation of the listed firearm.

(2) The model designation of each firearm that the manufacturer seeks to have listed under this section.

(3) A statement, under oath, that each unlisted firearm for which listing is sought differs from the listed firearm only in one or more of the ways identified in subdivision (a) and is in all other respects identical to the listed firearm.

(c) The department may, in its discretion and at any time, require a manufacturer to provide to the department any model for which listing is sought under this section, to determine whether the model complies with the requirements of this section.

**12132.** This chapter shall not apply to any of the following:

(a) The sale, loan, or transfer of any firearm pursuant to Section 12082 in order to comply with subdivision (d) of Section 12072.

(b) The sale, loan, or transfer of any firearm that is exempt from the provisions of subdivision (d) of Section 12072 pursuant to any applicable exemption contained in Section 12078, if the sale, loan, or transfer complies with the requirements of that applicable exemption to subdivision (d) of Section 12072.

(c) The sale, loan, or transfer of any firearm as described in paragraph (3) of subdivision (b) of Section 12125.

(d) The delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a person licensed pursuant to Section 12071 for the purposes of the service or repair of that firearm.

(e) The return of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Section 12071 to its owner where that firearm was initially delivered in the circumstance set forth in subdivision (d).

(f) The return of a pistol, revolver, or other firearm capable of being concealed upon the person by a person licensed pursuant to Section 12071 to its owner where that firearm was initially delivered to that licensee for the purpose of a consignment sale or as collateral for a pawnbroker loan.

(g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.

(h)(1) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes at the time that the act adding this subdivision is enacted, and that fall within the definition of "unsafe handgun" pursuant to paragraph (3) of subdivision (b) of Section 12126 shall be exempt, as provided in paragraphs (2) and (3).

(2) This chapter shall not apply to any of the following pistols, because they are consistent with the significant public purpose expressed in paragraph (1):

MANUFACTURER	MODEL	CALIBER
ANSCHUTZ	FP	.22LR
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
DRULOV	FP	.22LR
GREEN	ELECTROARM	.22LR
HAMMERLI	100	.22LR
HAMMERLI	101	.22LR
HAMMERLI	102	.22LR
HAMMERLI	162	.22LR
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	FP10	.22LR

HAMMERLI	MP33	.22LR
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
MORINI	CM102E	.22LR
MORINI	22M	.22LR
MORINI	32M	.32 S&W LONG
MORINI	CM80	.22LR
PARDINI	GP	.22 SHORT
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	K22	.22LR
PARDINI	MP	.32 S&W LONG
PARDINI	PGP75	.22LR
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
SAKO	FINMASTER	.22LR
STEYR	FP	.22LR
VOSTOK	IZH NO. 1	.22LR
VOSTOK	MU55	.22LR
VOSTOK	TOZ35	.22LR
WALTHER	FP	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(3) The department shall create a program that is consistent with the purpose stated in paragraph (1) to exempt new models of competitive firearms from this chapter. The exempt competitive firearms may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

(i) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely as a prop during the course of a motion picture, television, or video production by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

**12133.**(a) The provisions of this chapter shall not apply to a single-action revolver that has at least a 5-cartridge capacity with a barrel length of not less than three inches, and meets any of the following specifications:

(1) Was originally manufactured prior to 1900 and is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(2) Has an overall length measured parallel to

the barrel of at least 7 ½ inches when the handle, frame or receiver, and barrel are assembled.

(3) Has an overall length measured parallel to the barrel of at least 7 ½ inches when the handle, frame or receiver, and barrel are assembled and that is currently approved for importation into the United States pursuant to the provisions of paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States Code.

(b) The provisions of this chapter shall not apply to a single-shot pistol with a barrel length of not less than six inches and that has an overall length of at least 10 ½ inches when the handle, frame or receiver, and barrel are assembled..

## CHAPTER 2. MACHINE GUNS

### ARTICLE 1. GENERAL PROVISIONS

**12200.** The term "machinegun" as used in this chapter means any weapon which shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

**12201.** Nothing in this chapter shall affect or apply to any of the following:

(a) The sale to, purchase by, or possession of machineguns by police departments, sheriff's offices, marshals' offices, district attorneys' offices, the California Highway Patrol, the Department of Justice, the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit, or the military or naval forces of this state or of the United States for use in the discharge of their official duties, provided, however, that any sale to these entities be transacted by a person who is permitted pursuant to Section 12230 and licensed pursuant to Section 12250.

(b) The possession of machineguns by regular,

salaried, full-time peace officer members of a police department, sheriff's office, marshal's office, district attorney's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit when on duty and if the use is within the scope of their duties.

## **ARTICLE 2. UNLAWFUL POSSESSION OF MACHINE GUNS**

**12220.** (a) Any person, firm or corporation who within this state possesses or knowingly transports a machinegun, except as authorized by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment.

(b) Any person, firm, or corporation who within this state intentionally converts a firearm into a machinegun, or who sells, or offers for sale, or knowingly manufactures a machinegun, except as authorized by this chapter, is punishable by imprisonment in the state prison for four, six, or eight years.

## **ARTICLE 3. PERMITS**

**12230.** The Department of Justice may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for the permit, but no permit shall be issued to a person who is under 18 years of age.

**12231.** Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application

processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

**12232.** Every person, firm or corporation to whom a permit is issued shall keep it on his person or at the place where the firearms are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

**12233.** Permits issued in accordance with this chapter may be revoked by the issuing authority at any time when it appears that the need for the firearms has ceased or that the holder of the permit has used the firearms for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

**12234.** (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of machine guns.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

## **ARTICLE 4. LICENSES TO SELL MACHINE GUNS**

**12250.** (a) The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machineguns subject to all of the following conditions, upon breach of any of which the license shall be revoked:

1. The business shall be carried on only in the



place designated in the license.

2. The license or a certified copy thereof must be displayed on the premises in a place where it may easily be read.

3. No machinegun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.

4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser's permit, if any, and the signature of the purchaser or purchasing agent. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(b) Applications for licenses shall be filed in writing, signed by the applicant if an individual or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and licenses shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a license shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

**12251.** It shall be a public nuisance to possess any machinegun in violation of this chapter, and the Attorney General, any district attorney or any city attorney may bring an action before the superior court to enjoin the possession of any such machinegun.

Any such machinegun found to be in violation of this chapter shall be surrendered to the Department of Justice, and the department shall destroy such machinegun so as to render it unusable and unrepairable as a machinegun, except upon the filing of a certificate with the department by a judge or district

attorney stating that the preservation of such machinegun is necessary to serve the ends of justice.

## **CHAPTER. 2.3. ROBERTI-ROOS ASSAULT WEAPONS CONTROL ACT OF 1989**

### **ARTICLE 1. GENERAL PROVISIONS**

**12275.** This chapter shall be known as the Roberti-Roos Assault Weapons Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

**12275.5.** (a) The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in Section 12276 based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

(b) The Legislature hereby finds and declares that the proliferation and use of .50 BMG rifles, as defined in Section 12278, poses a clear and present terrorist threat to the health, safety, and security of all residents of, and visitors to, this state, based upon findings that those firearms have such a high capacity for long distance and highly destructive firepower that they pose an unacceptable risk to the death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police and military vehicles, power generation and transmission facilities, petrochemical production and storage facilities, and transportation infrastructure. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of these rifles and to establish a registration and permit procedure for their lawful sale and possession.

**12276.** As used in this chapter, "assault weapon" shall mean the following designated semiautomatic firearms:

(a) All of the following specified rifles:  
(1) All AK series including, but not limited to, the models identified as follows:

- (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
- (B) Norinco 56, 56S, 84S, and 86S.
- (C) Poly Technologies AKS and AK47.
- (D) MAADI AK47 and ARM.
- (2) UZI and Galil.
- (3) Beretta AR-70.
- (4) CETME Sporter.
- (5) Colt AR-15 series.
- (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110 C.

(7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.

- (8) MAS 223.
- (9) HK-91, HK-93, HK-94, and HK-PSG-1
- (10) The following MAC types:
  - (A) RPB Industries Inc. sM10 and sM11.
  - (B) SWD Incorporated M11.
- (11) SKS with detachable magazine.
- (12) SIG AMT, PE-57, SG 550, and SG 551.
- (13) Springfield Armory BM59 and SAR-48.
- (14) Sterling MK-6.
- (15) Steyer AUG.
- (16) Valmet M62S, M71S, and M78S.
- (17) Armalite AR-180.
- (18) Bushmaster Assault Rifle.
- (19) Calico M-900.
- (20) J&R ENG M-68.
- (21) Weaver Arms Nighthawk.

(b) All of the following specified pistols:

- (1) UZI.
- (2) Encom MP-9 and MP-45.
- (3) The following MAC types:
  - (A) RPB Industries Inc. sM10 and sM11.
  - (B) SWD Incorporated M-11.
  - (C) Advance Armament Inc. M-11.
  - (D) Military Armament Corp. Ingram M-11.
- (4) Intratec TEC-9.
- (5) Sites Spectre.
- (6) Sterling MK-7.
- (7) Calico M-950.
- (8) Bushmaster Pistol.

(c) All of the following specified shotguns:

- (1) Franchi SPAS 12 and LAW 12.
- (2) Striker 12.
- (3) The Streetsweeper type S/S Inc. SS/12.

(d) Any firearm declared by the court pursuant to Section 12276.5 to be an assault weapon that is specified as an assault weapon in a list promulgated

pursuant to Section 12276.5.

(e) The term "series" includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

(f) This section is declaratory of existing law, as amended, and a clarification of the law and the Legislature's intent which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to Section 12276.5, and any other models which are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.

**12276.1.** (a) Notwithstanding Section 12276, "assault weapon" shall also mean any of the following:

(1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

(2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

(6) A semiautomatic shotgun that has both of the following:

(A) A folding or telescoping stock.

(B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

(7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

(b) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes at the time the act adding this subdivision is enacted, and that would otherwise fall within the definition of "assault weapon" pursuant to this section are exempt, as provided in subdivision (c).

(c) "Assault weapon" does not include either of the following:

(1) Any antique firearm.

(2) Any of the following pistols, because they are consistent with the significant public purpose expressed in subdivision (b):

MANUFACTURER	MODEL	CALIBER
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	MP	.32 S&W LONG
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(3) The Department of Justice shall create a program that is consistent with the purposes stated in subdivision (b) to exempt new models of competitive pistols that would otherwise fall within the definition of "assault weapon" pursuant to this section from being classified as an assault weapon. The exempt competitive pistols may be based on recommendations by USA Shooting consistent with the regulations

contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

(d) The following definitions shall apply under this section:

(1) "Magazine" shall mean any ammunition feeding device.

(2) "Capacity to accept more than 10 rounds" shall mean capable of accommodating more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(3) "Antique firearm" means any firearm manufactured prior to January 1, 1899.

(e) This section shall become operative January 1, 2000.

~~12276.5. (a) Upon request by the Attorney General filed in a verified petition in a superior court of a county with a population of more than 1,000,000, the superior court shall issue a declaration of temporary suspension of the manufacture, sale, distribution, transportation, or importation into the state, or the giving or lending of a firearm alleged to be an assault weapon within the meaning of Section 12276 because the firearm is either of the following:~~

~~(1) Another model by the same manufacturer or a copy by another manufacturer of an assault weapon listed in subdivision (a), (b), or (c) of Section 12276 which is identical to one of the assault weapons listed in those subdivisions except for slight modifications or enhancements including, but not limited to, a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic or metal stock; larger magazine size; different caliber provided that the caliber exceeds .22 rimfire; or bayonet mount. The court shall strictly construe this paragraph so that a firearm which is merely similar in appearance but not a prototype or copy cannot be found to be within the meaning of this paragraph.~~

~~———— (2) A firearm first manufactured or sold to the general public in California after June 1, 1989, which has been redesigned, renamed, or renumbered from one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, or which is manufactured or sold by another company under a licensing agreement to manufacture or sell one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, regardless of the company of production or distribution, or the country of origin.~~

~~———— (b) Upon the issuance of a declaration of temporary suspension by the superior court and after the~~

Attorney General has completed the notice requirements of subdivisions (c) and (d), the provisions of subdivision (a) of Section 12280 shall apply with respect to those weapons:

— (c) Upon declaration of temporary suspension, the Attorney General shall immediately notify all police, sheriffs, district attorneys, and those requesting notice pursuant to subdivision (d), shall notify industry and association publications for those who manufacture, sell, or use firearms, and shall publish notice in not less than 10 newspapers of general circulation in geographically diverse sections of the state of the fact that the declaration has been issued.

— (d) The Attorney General shall maintain a list of any persons who request to receive notice of any declaration of temporary suspension and shall furnish notice under subdivision (c) to all these persons immediately upon a superior court declaration. Notice shall also be furnished by the Attorney General by certified mail, return receipt requested (or substantial equivalent if the person who is to receive the notice resides outside the United States), to any known manufacturer and California distributor of the weapon which is the subject of the temporary suspension order or their California statutory agent for service. The notice shall be deemed effective upon mailing.

— (e) After issuing a declaration of temporary suspension under this section, the superior court shall set a date for hearing on a permanent declaration that the weapon is an assault weapon. The hearing shall be set no later than 30 days from the date of issuance of the declaration of temporary suspension. The hearing may be continued for good cause thereafter. Any manufacturer or California distributor of the weapon which is the subject of the temporary suspension order has the right, within 20 days of notification of the issuance of the order, to intervene in the action. Any manufacturer or California distributor who fails to timely exercise its right of intervention, or any other person who manufactures, sells, or owns the assault weapon may, in the court's discretion, thereafter join the action as amicus curiae.

— (f) At the hearing, the burden of proof is upon the Attorney General to show by a preponderance of evidence that the weapon which is the subject of the declaration of temporary suspension is an assault weapon. If the court finds the weapon to be an assault weapon, it shall issue a declaration that it is an assault weapon under Section 12276. Any party to the matter may appeal the court's decision. A declaration that the weapon is an assault weapon shall remain in effect during the pendency of the appeal unless ordered

otherwise by the appellate court.

— (g) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 12276, and any firearm declared to be an assault weapon pursuant to this section, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

— (h) The Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this section. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations. Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

— (i) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

12276.5. (a) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 12276, and any firearm declared to be an assault weapon pursuant to this section, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(b) (1) Until January 1, 2007, the Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this section. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended

list with the Secretary of State for publication in the California Code of Regulations. Any firearm declared to be an assault weapon prior to January 1, 2007, shall remain on the list filed with the Secretary fo State.

(2) Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

(c) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

**12277.** As used in this chapter, "person" means an individual, partnership, corporation, limited liability company, association, or any other group or entity, regardless of how it was created.

**12278.** (a) As used in this chapter, a ".50 BMG rifle" means a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon pursuant to Section 12276, 12276.1, or 12276.5, or a machinegun, as defined in Section 12200.

(b) As used in this chapter, a ".50 BMG cartridge" means a cartridge that is designed and intended to be fired from a center fire rifle and that meets all of the following criteria:

(1) It has an overall length of 5.54 inches from the base to the tip of the bullet.

(2) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.

(3) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.

(4) The cartridge case length is 3.91 inches.

(c) A ".50 BMG rifle" does not include any "antique firearm," nor any curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(d) As used in this section, "antique firearm" means any firearm manufactured prior to January 1, 1899.

## **ARTICLE 2. UNLAWFUL ACTIVITIES**

**12280.** (a)(1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon or any .50 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in

the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon or any .50 BMG rifle to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(3) Except in the case of a first violation involving not more than two firearms as provided in subdivisions (b) and (c), for purposes of this section, if more than one assault weapon or .50 BMG rifle is involved in any violation of this section, there shall be a distinct and separate offense for each.

(b) Any person who, within this state, possesses any assault weapon, except as provided in this chapter, is punishable by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in the state prison. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon, pursuant to Section 12276, 12276.1, or 12276.5.

(2) The person has not previously been convicted of a violation of this section.

(3) The person was found to be in possession of the assault weapon within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(4) The person relinquished the firearm pursuant to Section 12288, in which case the assault weapon shall be destroyed pursuant to Section 12028.

(c) Any person who, within this state, possesses any .50 BMG rifle, except as provided in this chapter, is punishable by a fine of one thousand dollars(\$1,000), imprisonment in a county jail for a period not to exceed one year, or by both that fine and imprisonment. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (a) of Section 12285 and the person meets the conditions set forth in paragraphs (1), (2), and (3):

(1) The person proves that he or she lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(2) The person has not previously been convicted of violating this section.

(3) The person was found to be in possession of the .50 BMG rifle within one year following the end of

the .50 BMG rifle registration period established pursuant to subdivision (a) of Section 12285.

(4) Firearms seized pursuant to this subdivision from persons who meet all of the conditions set forth in paragraphs (1), (2), and (3) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the .50 BMG rifle should be destroyed pursuant to Section 12028. Firearms seized from persons who do not meet the conditions set forth in paragraphs (1), (2), and (3) shall be destroyed pursuant to Section 12028.

(d) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section, in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(e) Subdivisions (a), (b), and (c) shall not apply to the sale to, purchase by, importation of, or possession of assault weapons or a .50 BMG rifle by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

(f)(1) Subdivisions (b) and (c) shall not prohibit the possession or use of assault weapons or a .50 BMG rifle by sworn peace officer members of those agencies specified in subdivision (e) for law enforcement purposes, whether on or off duty.

(2) Subdivisions (a), (b), and (c) shall not prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a sworn peace officer member of an agency specified in subdivision (e), provided that the peace officer is authorized by his or her employer to possess or receive the assault weapon or the .50 BMG rifle. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 on or before April 1, 2002; in the case of a peace officer who possesses or receives the assault weapon on

or after January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 not later than 90 days after possession or receipt. In the case of a peace officer who possesses or receives a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of a peace officer who possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall register the .50 BMG rifle not later than one year after possession or receipt. The peace officer must include with the registration, a copy of the authorization required pursuant to this paragraph.

(3) Nothing in this section shall be construed to limit or prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon or .50 BMG rifle.

(g) Subdivision (b) shall not apply to the possession of an assault weapon, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(h) Subdivisions (a), (b), and (c) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons or .50 BMG rifles for sale to the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(i) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(j) Subdivisions (b) and (c) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f), if the assault weapon or .50 BMG rifle is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(k) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon or .50 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG rifle to another if all the following apply:

(A) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon or .50 BMG rifle is lent remains in the presence of the registered possessor of the assault weapon or .50 BMG rifle.

(C) The assault weapon or .50 BMG rifle is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon or .50 BMG rifle to the registered possessor, or lawful possessor, which is lent by the same pursuant to paragraph (1).

(l) Subdivisions (b) and (c) shall not apply to the possession of an assault weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG rifle is lent pursuant to subdivision (k).

(m) Subdivisions (a), (b), and (c) shall not apply to the possession and importation of an assault weapon or a .50 BMG rifle into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon or a .50 BMG rifle.

(2) The competition or match is conducted on the premises of one of the following:

(A) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(B) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon or .50 BMG rifle is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(n) Subdivisions (b) and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286 or 12287.

(2) A person who has a permit to possess an assault weapon or a .50 BMG rifle issued pursuant to Section 12286 or 12287 when he or she is acting in accordance with Section 12285, or 12286, or 12287.

(o) Subdivisions (a), (b), and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286, 12287, or 12290.

(p) Subdivision(s) (b) and (c) shall not apply to the registered owner of an assault weapon or a .50 BMG rifle possessing that firearm in accordance with subdivision (c) of Section 12285.

(q) Subdivision (a) shall not apply to the importation into this state of an assault weapon or a .50 BMG rifle by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(r) Subdivision (a) shall not apply during the first 180 days of the 2005 calendar year to the importation into this state of a .50 BMG rifle by a person who lawfully possessed that .50 BMG rifle in this state prior to January 1, 2005.

(s) Subdivision (c) shall not apply to the possession of a .50 BMG rifle that is not defined or specified as an assault weapon pursuant to this chapter, by any person prior to May 1, 2006 if all of the following are applicable:

(1) The person is eligible under this chapter to register that .50 BMG rifle.

(2) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(3) The person is otherwise in compliance with this chapter.

(t) Subdivisions (a),(b), and (c) shall not apply to the sale of assault weapons or .50 BMG rifles by persons who are issued permits pursuant to Section 12287 to any of the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Federal military and law enforcement agencies.

(4) Law enforcement and military agencies of other states.

(5) Foreign governments and agencies approved by the United States State Department.

(6) Officers described in subdivision (f) who are authorized to possess assault weapons or .50 BMG rifles pursuant to subdivision (f).

(s) (u) As used in this chapter, the date a firearm is "an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

**12281.** (a) Any person who, or firm, company, or corporation that, operated a retail or other commercial firm, company, or corporation, and manufactured, distributed, transported, imported, possessed, possessed for sale, offered for sale, or transferred, for commercial purpose, an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under

Section 12280. The immunity provided in this subdivision shall apply retroactively to any person who, or firm, company, or corporation that, is or was charged by complaint or indictment with a violation of Section 12280 for conduct related to an SKS rifle, whether or not the case of that person, firm, company, or corporation is final.

(b) Any person who possessed, gave, loaned, or transferred an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under Section 12280. The immunity provided in this subdivision shall apply retroactively to any person who was charged by complaint or indictment with a violation of Section 12280 for conduct related to an SKS rifle, whether or not the case of that person is final.

(c) Any SKS rifle in the possession of any person who, or firm, company, or corporation that, is described in subdivision (a) or (b), shall not be subject to seizure by law enforcement for violation of Section 12280 prior to January 1, 2000.

(d) Any person, firm, company, or corporation, convicted under Section 12280 for conduct relating to an SKS rifle, shall be permitted to withdraw his or her plea of guilty or nolo contendere, or to reopen his or her case and assert the immunities provided in this section, if the court determines that the allowance of the immunity is in the interests of justice. The court shall interpret this section liberally to the benefit of the defendant.

(e) The Department of Justice shall notify all district attorneys on or before January 31, 1999, of the provisions of this section. The department shall identify all criminal prosecutions in the state for conduct related to SKS rifles within 90 days of the effective date of this section. In all cases so identified by the Attorney General, the district attorneys shall inform defense counsel, or the defendant if the defendant is in propria persona, in writing, of the provisions of this section within 120 days of the effective date of this section.

(f)(1) Any person, firm, company, or corporation that is in possession of an SKS rifle shall do one of the following on or before January 1, 2000:

(A) Relinquish the SKS rifle to the Department of Justice pursuant to subdivision (h).

(B) Relinquish the SKS rifle to a law enforcement agency pursuant to Section 12288.

(C) Dispose of the SKS rifle as permitted by Section 12285.

(2) Any person who has obtained title to an SKS rifle by bequest or intestate succession shall be required to comply with subparagraph (A) or (B) of paragraph



(1) of this subdivision unless he or she otherwise complies with paragraph (1) of subdivision (b) of Section 12285.

(3) Any SKS rifle relinquished to the department pursuant to this subdivision shall be in a manner prescribed by the department.

(4) The department shall conduct a public education and notification program as described in Section 12289, commencing no later than January 1, 1999.

(g) Any person who complies with subdivision (f) shall be exempt from the prohibitions set forth in subdivision (a) or (b) of Section 12280 for those acts by that person associated with complying with the requirements of subdivision (f).

(h)(1) The department shall purchase any SKS rifle relinquished pursuant to subdivision (f) from funds appropriated for this purpose by the act amending this section in the 1997-98 Regular Session of the Legislature or by subsequent budget acts or other legislation. The department shall adopt regulations for this purchase program that include, but are not limited to, the manner of delivery, the reimbursement to be paid, and the manner in which persons shall be informed of the state purchase program.

(2) Any person who relinquished possession of an SKS rifle to a law enforcement agency pursuant to Section 12288 prior to the effective date of the purchase program set forth in paragraph (1) shall be eligible to be reimbursed from the purchase program. The procedures for reimbursement pursuant to this paragraph shall be part of the regulations adopted by the department pursuant to paragraph (1).

(i) Notwithstanding paragraph (11) of subdivision (a) of Section 12276, an "SKS rifle" under this section means all SKS rifles commonly referred to as "SKS Sporter" versions, manufactured to accept a detachable AK-47 magazine and imported into this state and sold by a licensed gun dealer, or otherwise lawfully possessed in this state by a resident of this state who is not a licensed gun dealer, between January 1, 1992, and December 19, 1997.

(j) Failure to comply with subdivision (f) is a public offense punishable by imprisonment in the state prison, or in a county jail, not exceeding one year.

(k) In addition to the regulations required pursuant to subdivision (h), emergency regulations for the purchase program described in subdivision (h) shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**12282.** (a) Except as provided in Section 12280, possession of any assault weapon, as defined in Section 12276, 12276.1, or 12276.5, or of any .50 BMG rifle, as defined in Section 12278, in violation of this chapter is a public nuisance, solely for purposes of this section and subdivision (d) of Section 12028. The Attorney General, any district attorney, or any city attorney, may, in lieu of criminal prosecution, bring a civil action or reach a civil compromise in any superior court to enjoin the possession of the assault weapon or .50 BMG rifle that is a public nuisance.

(b) Upon motion of the Attorney General, district attorney, or city attorney, a superior court may impose a civil fine not to exceed three hundred dollars (\$300) for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a) and up to one hundred dollars (\$100) for each additional assault weapon or .50 BMG rifle deemed a public nuisance to subdivision (a).

(c) Any assault weapon or .50 BMG rifle deemed a public nuisance under subdivision (a) shall be destroyed in a manner so that it may no longer be used, except upon finding by a court, or a declaration from the Department of Justice, district attorney, or city attorney stating that the preservation of the assault weapon or .50 BMG rifle is in the interest of justice.

(d) Upon conviction of any misdemeanor or felony involving the illegal possession or use of an assault weapon, the assault weapon shall be deemed a public nuisance and disposed of pursuant to subdivision (d) of Section 12028.

### **ARTICLE 3. REGISTRATION AND PERMITS**

**12285.** (a)(1) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days, with the Department of Justice pursuant to those procedures that the department may establish. Except as provided in subdivision (a) of Section 12280, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm

that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. The fees shall be deposited into the Dealers' Record of Sale Special Account.

(2) Except as provided in subdivision (a) of Section 12280, any person who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under Section 12276 or 12276.5 or defined as an assault weapon pursuant to Section 12276.1, shall register the .50 BMG rifle with the department no later than April 30, 2006, pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of twenty-five dollars (\$25) per person to cover the actual processing and public education campaign costs of the department. The fees shall be deposited into the Dealers' Record of Sale Special Account. Data-processing costs associated with modifying the department's data system to accommodate .50 caliber BMG rifles shall not be paid from the Dealers Record of Sale Special Account.

(b)(1) Except as provided in paragraph (2), no assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (A) obtains title to an assault weapon registered under this section or that was possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, or subsequently defined as an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the

same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290, in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290, is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(3) Except as provided in paragraph (4), no .50 BMG rifle possessed pursuant to this section may be sold or transferred on or after January 1, 2005, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who obtains title to a .50 BMG rifle registered under this section or that was possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate succession shall, within 180 days of receipt, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state.

(4) A person moving into this state, otherwise in lawful possession of a .50 BMG rifle, shall do one of the following:

(A) Prior to bringing the .50 BMG rifle into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified

in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the .50 BMG rifle to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290 in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that .50 BMG rifle to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290 is prohibited from delivering the .50 caliber BMG rifle to a person pursuant to this paragraph, the dealer shall dispose of the .50 BMG rifle as allowed by this chapter.

(c) A person who has registered an assault weapon or registered a .50 BMG rifle under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(6) While on publicly owned land if the possession and use of a firearm described in Section 12276, 12276.1, or 12278, is specifically permitted by the managing agency of the land.

(7) While transporting the assault weapon or .50 BMG rifle between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years,

no person who is prohibited from possessing a firearm by Section 12021 or 12021.1, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon or .50 BMG rifle.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons or .50 BMG rifle owned by family members residing in the same household.

(f) For 90 days following January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that they lawfully possessed prior to June 1, 1989.

(g)(1) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(2) Any person who legally registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2005, where the assault weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 12278, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(h) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

**12286.** Any person who lawfully acquired an assault weapon before June 1, 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner different than specified in subdivision (c) of Section 12285, who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, or who wishes to

acquire an assault weapon after January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

**12287.** (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture or sale of assault weapons or .50 BMG rifles for the sale to, purchase by, or possession of assault weapons or .50 BMG rifles by, any of the following:

(1) The agencies listed in subdivision (e), and the officers described in subdivision (f) of Section 12280.

(2) Entities and persons who have been issued permits pursuant to this section or Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal law enforcement and military agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

**12288.** Any individual may arrange in advance to relinquish an assault weapon or .50 BMG rifle to a police or sheriff's department. The assault weapon or .50 BMG rifle shall be transported in accordance with Section 12026.1.

**12288.5.** (a) No peace officer or dispatcher shall broadcast over a police radio that an individual has registered, or has obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this chapter, unless there exists a reason to believe in good faith that one of the following conditions exist:

(1) The individual has engaged, or may be engaged, in criminal conduct.

(2) The police are responding to a call in which the person allegedly committing a criminal violation may gain access to the assault weapon or .50 BMG rifle.

(3) The victim, witness, or person who reported

the alleged criminal violation may be using the assault weapon or .50 BMG rifle to hold the person allegedly committing the criminal violation or may be using the weapon in defense of himself, herself, or other persons.

(b) This section shall not prohibit a peace officer or dispatcher from broadcasting over a police radio that an individual has not registered, or has not obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this chapter.

(c) This section does not limit the transmission of an assault weapon or a .50 BMG rifle ownership status via law enforcement computers or any other medium that is legally accessible only to peace officers or other authorized personnel.

**12289.** (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons and the definition of the weapons set forth in Section 12276.1. The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners' responsibilities under this chapter which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period. For 50 BMG rifles, the department's education campaign shall provide materials to dealers of .50 BMG rifles, and to recognized national associations that specialize in .50 BMG rifles.

(b) Any costs incurred by the Department of Justice to implement this section which cannot be absorbed by the department shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076, upon appropriation by the Legislature.

**12289.5.** (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of assault weapons.

(b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more

frequently if determined by the department.

#### **ARTICLE 4. LICENSED GUN DEALERS**

**12290.** (a) Any licensed gun dealer, as defined in subdivision (c), who lawfully possesses an assault weapon or .50 BMG rifle pursuant to Section 12285, in addition to the uses allowed in Section 12285, may transport the firearm between dealers or out of the state if that person is permitted pursuant to the National Firearms Act, display it at any gun show licensed by a state or local governmental entity, sell it to a resident outside the state, or sell it to a person who has been issued a permit pursuant to Section 12286. Any transporting allowed by this section must be done as required by Section 12026.1.

(b)(1) Any licensed gun dealer, as defined in subdivision (c), may take possession of any assault weapon or .50 BMG rifle for the purposes of servicing or repair from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to this chapter.

(2) Any licensed gun dealer, as defined in subdivision (c), may transfer possession of any assault weapon or .50 BMG rifle received pursuant to paragraph (1), to a gunsmith for purposes of accomplishing service or repair of the same. Transfers are permissible only to the following persons:

(A) A gunsmith who is in the dealer's employ.

(B) A gunsmith with whom the dealer has contracted for gunsmithing services. In order for this subparagraph to apply, the gunsmith receiving the assault weapon or .50 BMG rifle shall hold all of the following:

(i) A dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(ii) Any business license required by a state or local governmental entity.

(c) The term "licensed gun dealer," as used in this article, means a person who is licensed pursuant to Section 12071, and who has a permit to sell assault weapons or .50 BMG rifles issued pursuant to Section 12287.

#### **CHAPTER 2.5. DESTRUCTIVE DEVICES**

**12301.** (a) The term "destructive device," as

used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled bore) conforming to the definition of a "destructive device" found in subsection (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun ammunition (single projectile or shot), antique rifle, or an antique cannon. For purposes of this section, the term "antique cannon" means any cannon manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade. The term "antique rifle" means a firearm conforming to the definition of an "antique firearm" in Section 479.11 of Title 27 of the Code of Federal Regulations.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for that device, except those devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(6) Any sealed device containing dry ice (CO<sub>2</sub>) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

**12302.** Nothing in this chapter shall prohibit the sale to, purchase by, or possession, transportation, storage, or use of, destructive devices or explosives by:

(a) Any peace officer listed in Section 830.1 or

830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of his or her employment.

(b) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment.

Nothing in this chapter prohibits the sale to, or the purchase, possession, transportation, storage, or use by any person who is a regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of his or her employment, of any equipment used by that Department or agency in the course of fire suppression.

**12303.** Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars (\$10,000) or by both such fine and imprisonment.

**12303.1.** Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years:

(a) Carries any explosive or destructive device on any vessel, aircraft, car, or other vehicle that transports passengers for hire.

(b) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container.

(c) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

**12303.2.** Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers

for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of two, four, or six years.

**12303.3.** Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with any intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

**12303.6.** Any person, firm or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

**12304.** Any person, firm or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber, except as provided in this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars (\$1,000), or by both such fine and imprisonment.

A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state prison, or by a fine not to exceed three thousand dollars (\$3,000), or by both such fine and imprisonment.

**12305.** (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

(1) Has been convicted of any felony.

(2) Is addicted to the use of any narcotic drug.

(3) Is a person in a class prohibited by Section 8100 or 8103 of the Welfare and Institutions Code or

Section 12021 or 12021.1 of this code.

(c) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

(d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(e) Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

(f) Except as provided in subdivision (g), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of destructive devices.

(g) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

**12307.** The possession of any destructive device in violation of this chapter shall be deemed to be a public nuisance and the Attorney General or district attorney of any city, county, or city and county may bring an action before the superior court to enjoin the possession of any destructive device.

Any destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, or to the sheriff, or to the chief of police, if the sheriff or chief of police has elected to perform the services required by this section. The department, sheriff, or chief of police shall destroy the destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district

attorney stating that the preservation of the destructive device is necessary to serve the ends of justice.

**12308.** Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for life with the possibility of parole.

**12309.** Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years.

**12310.** (a) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes the death of any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes mayhem or great bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life.

**12311.** No person convicted of a violation of this chapter shall be granted probation, and the execution of the sentence imposed upon such person shall not be suspended by the court.

**12312.** Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make such destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison for two, three, or four years.

## **CHAPTER 2.6. AMMUNITION**

**12316.** (a)(1) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b)(1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the

federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

(d)(1) A violation of paragraph (1) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021.

(2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

**12320.** Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine and imprisonment.

**12321.** Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to



sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine and imprisonment.

**12322.** Nothing in this chapter shall apply to or affect either of the following:

(a) The sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305.

(b) The possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if he or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021, 12021.1, or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code and is transporting the ammunition to a law enforcement agency for disposition according to law.

**12323.** As used in this chapter, the following definitions shall apply:

(a) "Handgun ammunition" means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, as defined in subdivision (a) of Section 12001, notwithstanding that the ammunition may also be used in some rifles.

(b) "Handgun ammunition designed primarily to penetrate metal or armor" means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(1) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(2) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as "KTW ammunition," to breach or penetrate a body vest or body shield when

fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) "Body vest or shield" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

(d) "Rifle" shall have the same meaning as defined in paragraph (20) of subdivision (c) of Section 12020.

**12324.** Nothing in this chapter shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

**12325.** Nothing in this chapter shall prohibit the manufacture of ammunition under contracts approved by agencies of the state or federal government.

## **CHAPTER 3.2 BOOBYTRAPS**

**12355.** (a) Except as provided in Chapter 2.5 (commencing with Section 12301), any person who assembles, maintains, places, or causes to be placed a boobytrap device as described in subdivision (c) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(c) For purposes of this section, "boobytrap" means any concealed or camouflaged device designed to cause great bodily injury when triggered by an action of any unsuspecting person coming across the device. Boobytraps may include, but are not limited to, guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with hooks attached.

## **CHAPTER 3.5 BODY ARMOR CERTIFICATION**

**12360.** No body armor shall be acquired by the commissioner pursuant to Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a) of Section 12361, the Department of Justice has certified such body armor.

**12361.** (a) Before a body armor may be purchased for use by state peace officers, the Department of Justice, after consultation with the Department of the California Highway Patrol, shall establish minimum ballistic performance standards, and shall determine that the armor satisfies those standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice; and only body armor that is certified as acceptable by the department shall be purchased for use by state peace officers.

**12362.** Any person engaged in the manufacture or sale of body armor may apply to the Department of Justice for certification that a particular type of body armor manufactured or sold by that person is acceptable. The applicant shall reimburse the state for any actual expenses incurred by the state in testing and certifying a particular type of body armor.

**12363.** Any application submitted pursuant to Section 12362 shall contain all of the following:

(a) Full written reports of any investigation conducted for the purpose of determining whether such body armor is acceptable.

(b) A full written statement of the design of such body armor.

(c) A full written statement of the methods used in, and the facilities and controls used for, the manufacture of such body armor.

(d) Such samples of body armor and its components as the department may require.

(e) Specimens of the instructions and advertisements used or proposed to be used for such body armor.

**12364.** The Department of Justice, in cooperation with the Office of Procurement of the Department of General Services, shall establish a schedule for ballistic testing for certification pursuant to subdivision (b) of Section 12361.

**12365.** The department shall issue an order refusing to certify a body armor as acceptable if, after due notice to the applicant, the department finds any of the following:

(a) That the body armor does not satisfy the ballistic performance standards established by the department pursuant to subdivision (b) of Section 12361.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

(d) That the applicant has failed to reimburse the state as required by Section 12362.

**12366.** The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That the experience or additional testing show that the body armor does not comply with the department's ballistic performance standards.

(b) That the application contains any misrepresentation of a material fact.

(c) The body armor must be retested for certification under new department standards.

**12367.** The department shall adopt and promulgate regulations for the fair and efficient enforcement of this chapter.

**12368.** (a) All purchases of certified body armor under the provisions of this chapter shall be made by the Department of General Services on behalf of an authorized state agency or department. Purchases of such body armor shall be based upon written requests submitted by an authorized state agency or department to the Department of General Services.

(b) The Department of General Services shall make certified body armor available to peace officers of the Department of Justice, as defined by Section 830.3 of the Penal Code, while engaged in law enforcement activities.

**12369.** The Department of General Services shall, pursuant to departmental regulation, after consultation with the Department of the California Highway Patrol, define the term "enforcement activities" for purposes of this chapter, and develop standards regarding what constitutes sufficient wear on body armor to necessitate replacement thereof.

**12370.** (a) Any person who has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5, under the laws of the United States, the State of California, or any other state, government, or country, who purchases, owns, or possesses body armor, as defined by Section 942 of Title 11 of the California Code of Regulations, except as authorized under subdivision (b), is guilty of a felony, punishable by imprisonment in a state prison for 16 months, or two or

three years.

(b) Any person whose employment, livelihood, or safety is dependent on the ability to legally possess and use body armor, who is subject to the prohibition imposed by subdivision (a) due to a prior violent felony conviction, may file a petition with the chief of police or county sheriff of the jurisdiction in which he or she seeks to possess and use the body armor for an exception to this prohibition. The chief of police or sheriff may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as he or she deems appropriate, based on the following:

(1) A finding that the petitioner is likely to use body armor in a safe and lawful manner.

(2) A finding that the petitioner has a reasonable need for this type of protection under the circumstances.

In making its decision, the chief of police or sheriff shall consider the petitioner's continued employment, the interests of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that law enforcement officials exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, this paragraph may not be construed to require law enforcement officials to grant relief to any particular petitioner. Relief from this prohibition does not relieve any other person or entity from any liability that might otherwise be imposed.

(c) The chief of police or sheriff shall require, as a condition of granting an exception under subdivision (b), that the petitioner agree to maintain on his or her person a certified copy of the law enforcement official's permission to possess and use body armor, including any conditions or limitations.

(d) Law enforcement officials who enforce the prohibition specified in subdivision (a) against a person who has been granted relief pursuant to subdivision (b), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the permission granting the person relief from the prohibition, as required by subdivision (c). This immunity from liability does not relieve any person or entity from any other liability that might otherwise be imposed.

(e) For purposes of this section only, "violent felony" refers to the specific crimes listed in subdivision (c) of Section 667.5, and to crimes defined under the applicable laws of the United States or any

other state, government, or country that are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

## **CHAPTER 4. TEAR GAS WEAPONS**

### **ARTICLE 1. GENERAL PROVISIONS**

**12401.** "Tear gas" as used in this chapter shall apply to and include all liquid, gaseous, or solid substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air, but does not apply to, and shall not include any substance registered as an economic poison as provided in Chapter 2 (commencing with Section 12751) of Division 7 of the Agricultural Code provided that such substance is not intended to be used to produce discomfort or injury to human beings.

**12402.** The term "tear gas weapon" as used in this chapter shall apply to and include:

(a) Any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gases.

(b) Any revolvers, pistols, fountain pen guns, billies, or other form of device, portable or fixed, intended for the projection or release of tear gas except those regularly manufactured and sold for use with firearm ammunition.

**12403.** Nothing in this chapter shall prohibit any person who is a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from purchasing, possessing, transporting, or using any tear gas or tear gas weapon if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

**12403.1.** Nothing in this chapter shall prohibit any member of the military and naval forces of this state or of the United States or any federal law enforcement officer from purchasing, possessing, or transporting any tear gas or tear gas weapon for official use in the discharge of his duties.

**12403.5.** Notwithstanding any other provision of law, a person holding a license as a private investigator or private patrol operator issued pursuant to Chapter 11 (commencing with Section 7500), Division

3 of the Business and Professions Code, or uniformed patrolmen employees of a private patrol operator, may purchase, possess, or transport any tear gas weapon, if it is used solely for defensive purposes in the course of the activity for which the license was issued and if the person has satisfactorily completed a course of instruction approved by the Department of Consumer Affairs, Bureau of Security and Investigative Services, in the use of tear gas.

**12403.7.** Notwithstanding any other law, any person may purchase, possess, or use tear gas and tear gas weapons for the projection or release of tear gas if the tear gas and tear gas weapons are used solely for self-defense purposes, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or any other state, government, or country or convicted of misuse of tear gas under subdivision (g) shall purchase, possess, or use tear gas or tear gas weapons.

(b) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(d) No person who is a minor shall purchase, possess, or use tear gas or tear gas weapons.

(e)(1) No person shall purchase, possess, or use any tear gas weapon that expels a projectile, or that expels the tear gas by any method other than an aerosol spray, or that contains more than 2.5 ounces net weight of aerosol spray.

(2) Every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that states: "WARNING: The use of this substance or device for any purpose other than self defense is a crime under the law. The contents are dangerous--use with care."

(3) After January 1, 1984, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that discloses the date on which the useful life of the tear gas weapon expires.

(4) Every tear gas container and tear gas weapon that may be lawfully purchased pursuant to this section shall be accompanied at the time of purchase by printed instructions for use.

(f) Effective March 1, 1994, every tear gas container and tear gas weapon that may be lawfully

purchased, possessed, and used pursuant to this section shall be accompanied by an insert including directions for use, first aid information, safety and storage information, and explanation of the legal ramifications of improper use of the tear gas container or tear gas product.

(g) Any person who uses tear gas or tear gas weapons except in self-defense is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment, except that if the use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of his or her official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years or by a fine of one thousand dollars (\$1,000), or by both the fine and imprisonment.

**12403.8.** (a) Notwithstanding paragraph (4) of subdivision (a) of Section 12403.7, a minor who has attained the age of 16 years may purchase and possess tear gas or tear gas weapons pursuant to this chapter if he or she is accompanied by a parent or guardian, or has the written consent of his or her parent or guardian.

(b) Notwithstanding paragraph (3) of subdivision (a) of Section 12403.7, a person may sell or furnish tear gas or a tear gas weapon to a minor who has attained the age of 16 years and who is accompanied by a parent or guardian, or who presents a statement of consent signed by the minor's parent or guardian.

(c) Any civil liability of a minor arising out of his or her use of tear gas or a tear gas weapon other than for self-defense is imposed upon the person, parent, or guardian who signed the statement of consent specified in subdivision (b) who shall be jointly and severally liable with the minor for any damages proximately resulting from the negligent or wrongful act or omission of the minor in the use of the tear gas or a tear gas weapon.

**12403.9.** Custodial officers of any county may carry tear gas weapons pursuant to Section 12403 only while on duty. These custodial officers may carry tear gas weapons while off duty only in accordance with all other laws.

**12404.** Nothing in this chapter authorizes the

possession of tear gas or tear gas weapons in any institution described in Section 4574, or within the grounds belonging or adjacent to any such institution, except where authorized by the person in charge of such institution.

## **ARTICLE 2. UNLAWFUL POSSESSION AND SALE**

**12420.** Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this chapter, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000), or by both.

**12421.** Each tear gas weapon sold, transported or possessed under the authority of this chapter shall bear the name of the manufacturer and a serial number applied by him.

**12422.** Any person who changes, alters, removes or obliterates the name of the manufacturer, the serial number or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars (\$2,000) or by both. Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

## **ARTICLE 3. PERMITS**

**12423.** The Department of Justice may issue a permit for the possession and transportation of tear gas or tear gas weapons that are not intended or certified for personal self-defense purposes, upon proof that good cause exists for the issuance thereof to the applicant for this permit. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or tear gas weapons in any place which is accurately and completely described in the application for the permit.

**12424.** Applications for permits shall be filed in writing, signed by the applicant if an individual, or

by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the place or vehicle in which the tear gas or tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas or tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

**12424.5.** Notwithstanding Section 12423, a bank, a savings and loan association, a credit union, or an industrial loan company which maintains more than one office or branch may make a single annual application for a permit. In addition to the requirements set forth in this article, that application shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapons are to be kept, installed, or maintained. Any location additions or deletions as to offices or branches shall be reported to the department within 60 days of the change.

A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including location changes.

**12425.** Every person, firm or corporation to whom a permit is issued shall either carry the permit upon his person or keep it in the place described in the permit. The permit shall be open to inspection by any peace officer or other person designated by the authority issuing the permit.

**12426.** Permits issued in accordance with this article may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapons or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapons or the permit issued.

## **CHAPTER 5. FIREARM DEVICES**

### **ARTICLE 1. GENERAL PROVISIONS**

**12500.** The term "silencer" as used in this chapter means any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term "silencer" also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in such assembly or fabrication.

**12501.** Section 12520 shall not apply to, or affect, any of the following:

(a) The sale to, purchase by, or possession of silencers by agencies listed in Section 830.1, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(b) The possession of silencers by regular, salaried, full-time peace officers who are employed by an agency listed in Section 830.1, or by the military or naval forces of this state or of the United States when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

(c) The manufacture, possession, transportation, or sale or other transfer of silencers to an entity described in subdivision (a) by dealers or manufacturers registered under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code, and the regulations issued pursuant thereto.

### **ARTICLE 2. UNLAWFUL POSSESSION OF FIREARM SILENCERS**

**12520.** Any person, firm, or corporation who within this state possesses a silencer is guilty of a

felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed ten thousand dollars (\$10,000) or by both.

## **CHAPTER 6. MISCELLANEOUS**

### **ARTICLE 1. BB DEVICES AND IMITATION FIREARMS**

**12550.** As used in this article, the following definitions apply:

(a) "BB device" is defined in subdivision (g) of Section 12001.

(b) "Firearm" is defined in subdivision (b) of Section 12001.

(c) "Imitation firearm" means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

**12551.** Every person who sells to a minor any BB device is guilty of a misdemeanor.

**12552.** (a) Every person who furnishes any BB device to any minor, without the express or implied permission of the parent or legal guardian of the minor, is guilty of a misdemeanor.

(b) As used in this section, "furnishes" means any of the following:

(1) A loan.

(2) A transfer that does not involve a sale.

**12553.** Any person who changes, alters, removes, or obliterates any coloration or markings that are required for by any applicable state or federal law or regulation, for any imitation firearm, or device described in subdivision (c) of Section 12555, in any way that makes the imitation firearm or device look more like a firearm is guilty of a misdemeanor. This subdivision shall not apply to manufacturer, importer, or distributor of imitation firearms or to the lawful use in theatrical productions, including motion pictures, television, and stage productions.

(b) Any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike or imitation firearm as defined by federal law or regulation is guilty of a misdemeanor.

**12554.** (a) Any imitation firearm manufactured after July 1, 2005, shall, at the time of offer for sale in this state, be accompanied by a conspicuous advisory in writing as part of the packaging, but not necessarily affixed to the imitation firearm, to the effect that the product may be mistaken for a firearm by law enforcement officers or others, that altering the coloration or markings required by state or federal law or regulations so as to make the product look more like a firearm is dangerous, and may be a crime, and that brandishing or displaying the product in public may cause confusion and may be a crime.

(b) Any manufacturer, importer, or distributor that fails to comply with this advisory for any imitation firearm manufactured after July 1, 2005, shall be liable for a civil fine for each action brought by a city attorney or district attorney of not more than one thousand dollars (\$1,000) for the first action, five thousand dollars (\$5,000) for the second action, and ten thousand dollars (\$10,000) for the third action and each subsequent action.

**12555.** Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports, distributes, or receives, by mail order or in any other manner, an imitation firearm except as authorized by this section shall be liable for a civil fine in an action brought by the city attorney or the district attorney of not more than ten thousand dollars (\$10,000) for each violation.

(b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of imitation firearms is authorized if the device is manufactured, purchased, sold, shipped, transported, distributed, or received for any of the following purposes:

(1) Solely for export in interstate or foreign commerce.

(2) Solely for lawful use in theatrical productions, including motion picture, television, and stage productions.

(3) For use in a certified or regulated sporting event or competition.

(4) For use in military or civil defense activities, or ceremonial activities.

(5) For public displays authorized by public or private schools.

(c) As used in this section, "imitation firearm" does not include any of the following:

(1) A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A BB device, as defined in subdivision (g) of Section 12001.

(3) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, as provided by federal regulations governing imitation firearms, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents, as provided by federal regulations governing imitation firearms.

**12556.** (a) No person may openly display or expose any imitation firearm, as defined in Section 12550, in a public place.

(b) Violation of this section, except as provided in subdivision (c), is an infraction punishable by a fine of one hundred dollars (\$100) for the first offense, and three hundred dollars (\$300) for a second offense.

(c) A third or subsequent violation of this section is punishable as a misdemeanor.

(d) Subdivision (a) shall not apply to the following, when the imitation firearm is:

(1) Packaged or concealed so that it is not subject to public viewing.

(2) Displayed or exposed in the course of commerce, including commercial film or video productions, or for service, repair, or restoration of the imitation firearm.

(3) Used in a theatrical production, a motion picture, video, television, or stage production.

(4) Used in conjunction with a certified or regulated sporting event or competition.

(5) Used in conjunction with lawful hunting, or lawful pest control activities.

(6) Used or possessed at certified or regulated public or private shooting ranges.

(7) Used at fairs, exhibitions, expositions, or other similar activities for which a permit has been obtained from a local or state government.

(8) Used in military, civil defense, or civic activities, including flag ceremonies, color guards, parades, award presentations, historical reenactments, and memorials.

(9) Used for public displays authorized by public or private schools or displays that are part of a museum collection.

(10) Used in parades, ceremonies, or other similar activities for which a permit has been obtained from a local or state government.

(11) Displayed on a wall plaque or in a presentation case.

(12) Used in areas where the discharge of a firearm is lawful.

(13) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

(e) For purposes of this section, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings.

(f) Nothing in this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

#### **ARTICLE 4. BLOWGUNS**

**12580.** "Blowgun," as used in this article, means a hollow tube designed and intended to be used as a tube through which a dart is propelled by the force of the breath of the user.

**12581.** "Blowgun ammunition," as used in this article, means a dart designed and intended for use in a blowgun.

**12582.** Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

**12583.** Nothing in this article shall prohibit the sale to, purchase by, possession of, or use of blowguns or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 14502 of the Corporations Code, or veterinarians in the

course and scope of their business in order to administer medicine to animals.

#### **ARTICLE 5. PICKETING**

**12590.** (a) Any person who does any of the following acts while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor:

(1) Carries concealed upon his person or within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries a loaded firearm upon his or her person or within any vehicle which is under his or her control or direction.

(3) Carries a deadly weapon.

(4) Wears the uniform of a peace officer, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

(c) Section 12027 shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a), nor shall subdivision (b) of Section 12031 be construed to authorize any conduct described in paragraph (2) of subdivision (a).

#### **ARTICLE 6. LESS LETHAL WEAPONS**

**12600.** A person who is a peace officer or a custodial officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized by and under the terms and conditions as are specified by his or her employing agency purchase, possess, or transport any less lethal weapon or ammunition therefor, for official use in the discharge of his or her duties.

**12601.** (a) "Less lethal weapon" means any device that is designed to or that has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort. It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

(b) Less lethal weapon includes the frame or



receiver of any weapon described in subdivision (a), but does not include any of the following unless the part or weapon has been converted as described in subdivision (a):

(1) Pistol, revolver, or firearm as defined in Section 12001.

(2) Machine-gun as defined in Section 12200.

(3) Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.

(4) Pistols, rifles, and shotguns that are firearms having a barrel less than 0.18 inches in diameter and that are designed to expel a projectile by any mechanical means or by compressed air or gas.

(5) When used as designed or intended by the manufacturer, any weapon commonly regarded as a toy gun, and that as such is incapable of inflicting any impairment of physical condition, function, or senses.

(6) A destructive device as defined in Section 12301.

(7) A tear gas weapon as defined in Section 12402.

(8) A bow or crossbow designed to shoot arrows.

(9) A device commonly known as a slingshot.

(10) A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.

(11) A device designed for signaling, illumination, or safety.

(12) An assault weapon as defined in Section 12276 or 12276.1.

(c) "Less lethal ammunition" means any ammunition that (1) is designed to be used in any less lethal weapon or any other kind of weapon (including, but not limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air, and compressed gas weapons) and (2) when used in the less lethal weapon or other weapon is designed to immobilize or incapacitate or stun a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

## **ARTICLE 7. STUN GUNS**

**12650.** "Stun gun" as used in this chapter shall include any item, except a taser, used or intended to be used as either an offensive or defensive weapon capable of temporarily immobilizing a person by the infliction of an electrical charge.

**12651.** Notwithstanding any other provision of law, any person may purchase, possess, or use a stun gun, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or any other state, government, or country or convicted of misuse of a stun gun under Section 244.5, shall purchase, possess, or use stun guns.

(b) No person who is addicted to any narcotic drug shall purchase, possess, or use a stun gun.

(c) No person shall sell or furnish any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian. Violation of this subdivision shall be a public offense punishable by a fifty dollar (\$50) fine for the first offense. Any subsequent violation of this subdivision is a misdemeanor.

(d) No minor shall possess any stun gun unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian.

**12652.** Each stun gun sold shall contain both of the following:

(a) The name of the manufacturer stamped on the stun gun.

(b) The serial number applied by the manufacturer.

**12653.** Unless otherwise specified, any violation of this article is a misdemeanor.

**12654.** Each stun gun sold in this state shall be accompanied by an instruction booklet. Violation of this section shall be a public offense punishable by a fifty dollar (\$50) fine for each weapon sold without the booklet.

## **ARTICLE 8 HANDGUN SAFETY CERTIFICATE**

**12800.** It is the intent of the Legislature in enacting this article to require that persons who obtain handguns have a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms. It is not the intent of the Legislature to require a handgun safety certificate for the mere possession of a firearm.

**12801.** (a) As used in this article, the following definitions shall apply:

(1) "Department" means the Department of

Justice.

(2) "DOJ Certified Instructor" or "certified instructor" means a person designated as a handgun safety instructor by the Department of Justice pursuant to subdivision (d) of Section 12804.

(b) No person shall do either of the following:

(1) Purchase or receive any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, without a valid handgun safety certificate.

(2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, as defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States Code, to any person who does not have a valid handgun safety certificate.

(c) Any person who violates subdivision (b) is guilty of a misdemeanor.

(d) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

**12802.** (a) No person may commit an act of collusion as specified in Section 12072.

(b) Any person who alters, counterfeits, or falsifies a handgun safety certificate, or who uses or attempts to use any altered, counterfeited, or falsified handgun safety certificate to purchase a handgun is guilty of a misdemeanor.

(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of this code shall not be punished under more than one provision.

**12803.** (a) No certified instructor may issue a handgun safety certificate to any person who has not complied with this article. Proof of compliance shall be forwarded to the department by certified instructors as frequently as the department may determine.

(b) No certified instructor may issue a handgun safety certificate to any person who is under 18 years of age.

(c) A violation of this section shall be grounds for the department to revoke the instructor's certification to issue handgun safety certificates.

**12804.** (a) The department shall develop an instruction manual in English and in Spanish by

October 1, 2002. The department shall make the instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall make it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 12080.

(b) The department shall develop audiovisual materials in English and in Spanish by March 1, 2003, to be issued to instructors certified by the department.

(c)(1) The department shall develop a written objective test, in English and in Spanish, and prescribe its content, form, and manner, to be administered by an instructor certified by the department. If the person taking the test is unable to read, the examination shall be administered orally. The test shall cover, but not be limited to, all of the following:

(A) The laws applicable to carrying and handling firearms, particularly handguns.

(B) The responsibilities of ownership of firearms, particularly handguns.

(C) Current law as it relates to the private sale and transfer of firearms.

(D) Current law as it relates to the permissible use of lethal force.

(E) What constitutes safe firearm storage.

(F) Issues associated with bringing a handgun into the home.

(G) Prevention strategies to address issues associated with bringing firearms into the home.

(2) If the person taking the test is unable to read English or Spanish, the test may be applied orally by a translator.

(d) The department shall prescribe a minimum level of skill, knowledge and competency to be required of all handgun safety certificate instructors.

(e) If a dealer licensed pursuant to Section 12071 or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also designate a separate room or partitioned area for a person to take the objective test, and maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

(f) The department shall solicit input from any reputable association or organization, including any law enforcement association that has as one of its objectives the promotion of firearms safety, in the development of the handgun safety certificate instructional materials.

(g) The department shall develop handgun safety certificates to be issued by instructors certified by the department, to those persons who have complied with this article.

(h) The department shall be immune from any liability arising from implementing this section.

(i) The department shall update test materials related to this article every five years.

(j) Department Certified Instructor applicants shall have a certification to provide training from one of the following organizations as specified, or any entity found by the department to give comparable instruction in firearms safety, or the applicant shall have similar or equivalent training to that provided by the following, as determined by the department:

(1) Department of Consumer Affairs, State of California-Firearm Training Instructor.

(2) Director of Civilian Marksmanship, Instructor or Rangemaster.

(3) Federal Government, Certified Rangemaster or Firearm Instructor.

(4) Federal Law Enforcement Training Center, Firearm Instructor Training Program or Rangemaster.

(5) United States Military, Military Occupational Specialty (MOS) as marksmanship or firearms instructor. Assignment as Range Officer or Safety Officer are not sufficient.

(6) National Rifle Association-Certified Instructor, Law Enforcement Instructor, Rangemaster, or Training Counselor.

(7) Commission on Peace Officer Standards and Training (POST), State of California-Firearm Instructor or Rangemaster.

(8) Authorization from a State of California accredited school to teach a firearm training course.

**12805.** (a) An applicant for a handgun safety certificate shall successfully pass the objective test referred to in paragraph (1) of subdivision (c) of Section 12804, with a passing grade of at least 75 percent. Any person receiving a passing grade on the objective test shall immediately be issued a handgun safety certificate by the instructor.

(b) An applicant who fails to pass the objective test upon the first attempt shall be offered additional instructional materials by the instructor such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission by the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours

in order to retake the test.

(c) The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to the department pursuant to subdivision (e).

(d) An applicant to renew a handgun safety certificate shall be required to pass the objective test. The certified instructor may charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant to subdivision (e).

(e) The department may charge the certified instructor up to fifteen dollars (\$15) for each handgun safety certificate issued by that instructor to cover the department's cost in carrying out and enforcing this article, and enforcing this title, as determined annually by the department.

(f) All money received by the department pursuant to this article shall be deposited into the Firearms Safety and Enforcement Special Fund created pursuant to Section 12076.5.

(g) The department shall conduct enforcement activities, including, but not limited to, law enforcement activities to ensure compliance with Title 2 (commencing with Section 12000) of Part 4.

**12806.** (a) A handgun safety certificate shall include, but not be limited to, the following information:

(1) A unique handgun safety certificate identification number.

(2) The holder's full name.

(3) The holder's date of birth.

(4) The holder's driver's license or identification number.

(5) The holder's signature.

(6) The signature of the issuing instructor.

(7) The date of issuance.

(b) The handgun safety certificate shall expire five years after the date that it was issued by the certified instructor.

**12807.** (a) The following persons, properly identified, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Any active or honorably retired federal officer or law enforcement agent.

(3) Any reserve peace officer, as defined in Section 832.6.

(4) Any person who has successfully completed

the course of training specified in Section 832.

(5) A firearms dealer licensed pursuant to Section 12071, who is acting in the course and scope of his or her activities as a person licensed pursuant to Section 12071.

(6) A federally licensed collector who is acquiring or being loaned a handgun that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued to him or her by the department pursuant to Section 12071.

(7) A person to whom a handgun is being returned, where the person receiving the firearm is the owner of the firearm.

(8) A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Section 50081 of the Government Code.

(9) Any individual who has a valid concealed weapons permit issued pursuant to Section 12050.

(10) An active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified. For purposes of this section, proper identification includes the Armed Forces Identification Card, or other written documentation certifying that the individual is an active or honorably retired member.

(11) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(12) Persons who are the holders of a special weapons permit issued by the department pursuant to Section 12095, 12230, 12250, or 12305.

(b) The following persons who take title or possession of a handgun by operation of law in a representative capacity, until or unless they transfer title ownership of the handgun to themselves in a personal capacity, are exempted from the handgun safety certificate requirement in subdivision (b) of Section 12801:

(1) The executor or administrator of an estate.

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(3) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(4) A receiver performing his or her functions as a receiver.

(5) A trustee in bankruptcy performing his or her duties.

(6) An assignee for the benefit of creditors performing his or her functions as an assignee.

**12808.** (a) In the case of loss or destruction of a handgun safety certificate, the issuing instructor shall issue a duplicate certificate upon request and proof of identification to the certificate holder.

(b) The department may authorize the issuing instructor to charge a fee not to exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund, created pursuant to Section 12076.5.

**12809.** Except for the provisions of Section 12804, this article shall become operative on January 1, 2003.

## **CROSS REFERENCES AND OTHER INFORMATION**

### **Stun Guns**

**244.5.** (a) As used in this section, "stun gun" means any item, except a taser, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

(b) Every person who commits an assault upon the person of another with a stun gun or a taser shall be punished by imprisonment in a county jail for a term not exceeding one year, or by imprisonment in the state prison for 16 months, two, or three years.

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or taser, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

(d) This section shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

## **Assault with a Deadly Weapon/Force**

**245.** (a)(1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, or a .50 BMG rifle, as defined in Section 12278, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d)(1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged

in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, or a .50 BMG rifle, as defined in Section 12278, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

## **Discharge of Firearm**

**246.** Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

## **Drawing/Exhibiting a Deadly Weapon/Firearm**

**417.** (a)(1) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses a deadly weapon other than a firearm in any fight or quarrel is guilty of a misdemeanor, punishable by imprisonment in a county jail for not less than 30 days.

(2) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or

threatening manner, or who in any manner, unlawfully uses a firearm in any fight or quarrel is punishable as follows:

(A) If the violation occurs in a public place and the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in a county jail for not less than three months and not more than one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(B) In all cases other than that set forth in subparagraph (A), a misdemeanor, punishable by imprisonment in a county jail for not less than three months.

(b) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses any loaded firearm in any fight or quarrel upon the grounds of any day care center, as defined in Section 1596.76 of the Health and Safety Code, or any facility where programs, including day care programs or recreational programs, are being conducted for persons under 18 years of age, including programs conducted by a nonprofit organization, during the hours in which the center or facility is open for use, shall be punished by imprisonment in the state prison for 16 months, or two or three years, or by imprisonment in a county jail for not less than three months, nor more than one year.

(c) Every person who, in the immediate presence of a peace officer, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, and who knows, or reasonably should know, by the officer's uniformed appearance or other action of identification by the officer, that he or she is a peace officer engaged in the performance of his or her duties, and that peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in a county jail for not less than nine months and not to exceed one year, or in the state prison.

(d) Except where a different penalty applies, every person who violates this section when the other person is in the process of cleaning up graffiti or vandalism is guilty of a misdemeanor, punishable by imprisonment in a county jail for not less than three months nor more than one year.

(e) As used in this section, "peace officer" means any person designated as a peace officer pursuant to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(f) As used in this section, "public place"

means any of the following:

- (1) A public place in an incorporated city.
- (2) A public street in an incorporated city.
- (3) A public street in an unincorporated area.

**417.4.** Every person who, except in self-defense, draws or exhibits an imitation firearm, as defined in Section 12550, in a threatening manner against another in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in a county jail for a term of not less than 30 days.

### **Sniperscopes**

**468.** Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a sniperscope shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. As used in this section, sniperscope means any attachment, device or similar contrivance designed for or adaptable to use on a firearm which, through the use of a projected infrared light source and electronic telescope, enables the operator thereof to visually determine and locate the presence of objects during the nighttime. This section shall not prohibit the authorized use or possession of such sniperscope by a member of the armed forces of the United States or by police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities for the enforcement of law or ordinances; nor shall this section prohibit the use or possession of such sniperscope when used solely for scientific research or educational purposes.

### **Switchblade Knives**

**653k.** Every person who possesses in the passenger's or driver's area of any motor vehicle in any public place or place open to the public, carries upon his or her person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switchblade knife having a blade two or more inches in length is guilty of a misdemeanor.

For the purposes of this section, "switchblade knife" means a knife having the appearance of a pocketknife, and includes a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, the blade or blades of which are two or more inches in length and which can be released

automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever. "Switchblade knife" does not include a knife that opens with one hand utilizing thumb pressure applied solely to the blade of the knife or a thumb stud attached to the blade, provided that the knife has a detent or other mechanism that provides resistance that must be overcome in opening the blade, or that biases the blade back toward its closed position.

For purposes of this section, "passenger's or driver's area" means that part of a motor vehicle which is designed to carry the driver and passengers, including any interior compartment or space therein.

## FAMILY CODE SECTIONS

### Domestic Violence/protective Orders

**6211.** "Domestic violence" is abuse perpetrated against any of the following persons:

- (a) A spouse or former spouse.
- (b) A cohabitant or former cohabitant, as defined in Section 6209.
- (c) A person with whom the respondent is having or has had a dating or engagement relationship.
- (d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).
- (e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.
- (f) Any other person related by consanguinity or affinity within the second degree.

**6218.** "Protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

- (a) An order described in Section 6320 enjoining specific acts of abuse.
- (b) An order described in Section 6321 excluding a person from a dwelling.
- (c) An order described in Section 6322 enjoining other specified behavior.

**6388.** A willful and knowing violation of a protective order, as defined in Section 6218, is a crime

punishable as provided by Section 273.6 of the Penal Code.

**6389.** (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm while that protective order is in effect. Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council; shall include a notice that, upon service of the order, the shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c) (1) If the respondent is present in court at a duly noticed hearing, the court shall order the respondent to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the protective order. Alternatively, if no request is made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm at the time of relinquishment. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court that issued the protective order, within 48 hours after being served with the order, a the receipt showing the firearm was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(3) The application forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall be amended to require the

petitioner to describe the number, types, and locations of any firearms presently known by the petitioner to be possessed or controlled by the respondent. within 72 hours after receiving the order. In the event that it is necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

——— (d) If the respondent declines to relinquish possession of any firearm based upon the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

——— (e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

——— (f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

——— (g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited

class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

——— (h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

——— (i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

——— (j) The disposition of any unclaimed property under this section shall be made pursuant to Section



1413 of the Penal Code.

— (k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

— (l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

— (m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

(4) It is recommended that every law enforcement agency in the state develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms.

(d) If the respondent declines to relinquish possession of any firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall

prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms

owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(i) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

## **GOVERNMENT CODE SECTION**

### **State Preemption of Firearm Regulation**

**53071.** It is the intention of the Legislature to occupy the whole field of regulation of the registration or licensing of commercially manufactured firearms as encompassed by the provisions of the Penal Code, and such provisions shall be exclusive of all local regulations, relating to registration or licensing of commercially manufactured firearms, by any political subdivision as defined in Section 1721 of the Labor Code.

**53071.5.** By the enforcement of this section, the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined in Section 12250 of the Penal Code, and that section shall preempt and be exclusive of all regulations relating to the manufacture, sale, or possession of imitation firearms, including regulations governing the manufacture, sale, or possession of BB devices and air rifles described in subdivision (g) of Section 12001 of the Penal Code.

## **WELFARE AND INSTITUTIONS CODE SECTIONS**

### **Juveniles Fitness Hearings**

**707.** (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at the hearing.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery while armed with a dangerous or

deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping in violation of subdivision (b) of Section 209 of the Penal Code.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping, as punishable in Section 209.5 of the Penal Code.

(27) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(28) The offense described in Section 12308 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor. A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d)(1) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14

years but had not attained the age of 16 years, of any of the offenses set forth in paragraph (2), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this subdivision, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may already have been entered shall constitute evidence at the hearing.

(2) Paragraph (1) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14 years but had not attained the age of 16 years, of one of the following offenses:

(A) Murder.

(B) Robbery in which the minor personally used a firearm.

(C) Rape with force or violence or threat of great bodily harm.

(D) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(E) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(F) The offense specified in subdivision (a) of Section 289 of the Penal Code.

(G) Kidnapping for ransom.

(H) Kidnapping in violation of subdivision (b) of Section 209 of the Penal Code.

(I) Kidnapping with bodily harm.

(J) Kidnapping, in violation of Section 209.5 of the Penal Code.

(K) The offense described in subdivision (c) of Section 12034 of the Penal Code, in which the minor personally used a firearm.

(L) Personally discharging a firearm into an inhabited or occupied building.

(M) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(N) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(O) Torture, as described in Section 206 of the Penal Code.

(P) Aggravated mayhem, as described in Section 205 of the Penal Code.

(Q) Assault with a firearm in which the minor personally used the firearm.

(R) Attempted murder.

(S) Rape in which the minor personally used a firearm.

(T) Burglary in which the minor personally used a firearm.

(U) Kidnapping in which the minor personally used a firearm.

(V) The offense described in Section 12308 of the Penal Code.

(W) Carjacking, in which the minor personally used a firearm.

(e) This subdivision shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14 years but had not attained the age of 16 years, of the offense of murder in which it is alleged in the petition that one of the following exists:

(1) In the case of murder in the first or second degree, the minor personally killed the victim.

(2) In the case of murder in the first or second degree, the minor, acting with the intent to kill the victim, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted any person to kill the

victim.

(3) In the case of murder in the first degree, while not the actual killer, the minor, acting with reckless indifference to human life and as a major participant in a felony enumerated in paragraph (17) of subdivision (a) of Section 190.2 of the Penal Code, or an attempt to commit that felony, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted in the commission or attempted commission of that felony and the commission or attempted commission of that felony or the immediate flight therefrom resulted in the death of the victim.

Upon motion of the petitioner made prior to the attachment of jeopardy, the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor. A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence

at the hearing.

(f) Any report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

## **Firearms**

**8100.** (a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to this subdivision once he or she is discharged from the facility.

(b)(1) A person shall not have in his or her possession or under his or her control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of six months whenever, on or after January 1, 1992, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The six-month period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by

certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of six months commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. The court, upon motion of the petitioner establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms.

A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the person has a mental disorder and has probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

(f) "Danger to self," as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of this section shall be a public offense, punishable by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

(i) Any person admitted and receiving treatment prior to January 1, 1992, shall be governed by this section, as amended by Chapter 1090 of the Statutes of 1990, until discharged from the facility.

**8101.** (a) Any person who shall knowingly supply, sell, give, or allow possession or control of a deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment in the state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) Any person who shall knowingly supply, sell give, or allow possession or control of a firearm to any person described in Section 8100 or 8103 shall be punished by imprisonment in the state prison for two, three, or four years.

(c) "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

**8102.** (a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section

8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated. Where the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated. Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(c) Upon the release of a person as described in subdivision (b), the confiscating law enforcement agency shall have 30 days to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the person of his or her right to a hearing on this issue. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the release of the person from a health facility.

(d) If the law enforcement agency does not initiate proceedings within the 30-day period, or the period of time authorized by the court in an ex parte order issued pursuant to subdivision (c), it shall make the weapon available for return.

(e) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(f) If the person responds and requests a

hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district attorney of the date, time, and place of the hearing.

(g) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default.

**8103.** (a)(1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or

receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d)(1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e)(1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the

person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f)(1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (5), found that the People of the State of California have not met their burden pursuant to paragraph (6).

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the



identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the superior court unless the person states that he or she will submit the form to the superior court.

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of

the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person, shall not be subject to the five-year prohibition in this section on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice.

Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) Where the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(9) Nothing in this subdivision shall prohibit the

use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(g)(1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the

district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

(j) "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

**8104.** The State Department of Mental Health shall maintain in a convenient central location and shall

make available to the Department of Justice those records that the State Department of Mental Health has in its possession that are necessary to identify persons who come within Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Section 12020 of the Penal Code, assault weapons as defined in Section 12276 of the Penal Code, and destructive devices as defined in Section 12301 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives, destructive devices, devices as defined in Section 12001 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person.

**8105.** (a) The Department of Justice shall request each public and private mental hospital, sanitarium, and institution to submit to the department that information that the department deems necessary to identify those persons who are within subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit

to the department that information which the department deems necessary to identify those persons who are within subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(c) A licensed psychotherapist shall immediately report to a local law enforcement agency the identity of a person subject to subdivision (b) of Section 8100. Upon receipt of the report, the local law enforcement agency, on a form prescribed by the Department of Justice, shall immediately notify the department of the person who is subject to subdivision (b) of Section 8100.

(d) All information provided to the Department of Justice pursuant to this section shall be kept confidential, separate and apart from all other records maintained by the department. The information provided to the Department of Justice pursuant to this section shall be used only for any of the following purposes:

(1) By the department to determine eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives.

(2) For the purposes of the court proceedings described in subdivision (b) of Section 8100 to determine the eligibility of the person who is bringing the petition pursuant to paragraph (3) of subdivision (b) of Section 8100.

(3) To determine the eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives who is the subject of a criminal investigation, if a part of the criminal investigation involves the acquisition, carrying, or possession of firearms, explosives, or destructive devices by that person.

(e) Reports shall not be required or requested under this section where the same person has been previously reported pursuant to Section 8103 or 8104.

**8108.** Mental hospitals, health facilities, or other institutions, or treating health professionals or psychotherapists who provide reports subject to this chapter shall be civilly immune for making any report required or authorized by this chapter. This section is declaratory of existing law.